Accountancy

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Professional Notes

International Congress on Accounting

PRELIMINARY FIGURES OF THE APPLICATIONS TO ATTEND THE SIXTH INTERNATIONAL Congress on Accounting suggest that, if numbers are any criterion, the Congress will be an enormous success. So far about a thousand accountants in Great Britain and Ireland have applied to attend, and there will also be more than 500 delegates and visitors from overseas, representing 53 accountancy organisations in 27 countries. The Congress is to be held in London, at the Royal Festival Hall, from June 16 to 20. Papers on the subjects selected for discussion are being contributed by prominent members of the accountancy profession in Great Britain, as well as from overseas.

Members of the sponsoring bodies of the Congress who are contributing papers are:

Mr. C. Percy Barrowcliff, F.S.A.A. (President of the Society of Incorporated Accountants and Auditors)—"Fluctuating Price Levels in Relation to Accounts."

Mr. G. B. Burr, F.A.C.C.A.—"The Incidence of Taxation."

Mr. F. R. M. de Paula, C.B.E., F.C.A.—"The Accountant in Industry."

Mr. Ian W. Macdonald, M.A., C.A.—"Accountancy Requirements for Issues of Capital."

Dr. A. H. Marshall, B.SC.(ECON.), PH.D., F.I.M.T.A., F.S.A.A.—"The Accountant in Practice and in Public Service."

Mr. W. S. Risk, B.COM., C.A., F.C.W.A.—"The Accountant in Industry."

Mr. G. F. Saunders, F.C.A.—"The Accountant in Practice and in Public Service."

Accounting in Inflation—

In his address at the annual general meeting of the Federation of British Industries, Sir Archibald Forbes, its President, said that a main danger of the proposed Excess Profits Tax was that it might tax a purely inflationary increase in profit, as conventionally measured, although the true profit, allowing for maintenance of capital at inflated prices, would be much less. He appealed to industrialists that they should:

> apply in their own profit and loss accounts the principles for which industry is contending. That is to say, provisions required to maintain intact the physical as distinct from the money capital should be clearly shown as deductions from trading profit, leaving only as net profit an amount which is truly free for appropriation.

He added that:

> it would be of the utmost help if the great accountancy profession could bring itself to reach unanimity on this subject. The ordinary person does not understand—or care—about nice distinctions "above" and "below" the line. He looks for the ultimate amount shown as "profit." All I suggest is that this figure should represent what is available for distribution or for free reserves after deducting what is necessary to maintain continuity of operations.

There is evidence that an increasing part of the accountancy profession, of which Sir Archibald Forbes is himself an eminent representative, is revising its ideas on this vexed subject, even though unanimity may still be some way off. We have noted in earlier issues of ACCOUNTANCY the formation of a committee of inquiry by the Society of Incorporated Accountants. The Institute of Chartered Accountants of Scotland now announces that it has taken what it calls "a somewhat unusual course" in launching a prize competition on *The Future of Company Accounts*. A first prize of 250 guineas, a second prize of 100 guineas and three awards of 10 guineas are offered for the best papers on this topic. The papers are to be judged by the contribution they make towards the solution of the accounting, financial, economic and social problems arising from (*a*) fluctuations in the purchasing power of the pound sterling, (*b*)

valuation of assets, (*c*) current trends in the rates and underlying policies of taxation, (*d*) overseas trade involving local currencies and (*e*) the need to measure accurately the amount of capital employed in an undertaking. The competition, particulars of which are given in an advertisement in this issue of ACCOUNTANCY, is open to anyone and is not restricted to members of the Institute.

—And Arriving at Replacement Values

Another development which testifies to accountants' growing desire to take full account of the inflation is the formation by the Association of Certified and Corporate Accountants, in collaboration with the "Economist" Intelligence Unit, of a service for assisting companies to determine the replacement values of fixed assets. The service has available a large number of individual series of index numbers showing the price changes for a representative selection of items of industrial equipment which may be grouped as follows:

Factory buildings;
Agricultural equipment;
Electrical installations;
Machine tools;
Textile machinery;
Chemical plant;
Food manufacturing machinery;
Office equipment;
Commercial vehicles.

Further items of equipment are to be added and separate surveys can be made for more specialised plant. By combining the individual series the needs of companies using different processes can be met. The fee for each client will depend upon his particular requirements, but it is stated that the range of fees in mind is five guineas for providing any particular index from 1938 to date and two guineas per annum for subsequent revisions at quarterly intervals. Further information is obtainable from the "Economist" Intelligence Unit, 22, Ryder Street, London, S.W.1.

This service will be useful for companies in fixing depreciation allowances on the basis of replacement costs, even if it is used only as a check upon figures otherwise computed. Some companies will no doubt be able to follow the example said to have been set by *Imperial Chemical Industries*, of arriving at up-to-date values for the fixed assets by simple co-operation between the accountant and the works engineer in each department. Others may wish to obtain a professional re-valuation by one of the several firms of valuers specialising in this kind of work. In any event, re-valuation to determine how much should be set aside for replacement of fixed assets does not, it should be remarked, necessarily involve re-valuation in the balance sheet. Thus, it was argued by Mr. Percy Barrowcliff, the President of the Society of Incorporated Accountants, in a recent after-dinner speech (see page 82 of this issue) that the necessary adjustments in accounting conventions to meet the present needs can and should be made without balance sheet re-valuations.

New Year Honours

We take pleasure in congratulating four members of the Society of Incorporated Accountants whose names appear in the New Year Honours List. Mr. I. Wild, C.M.G., O.B.E., A.S.A.A., Under-Secretary of the Ministry of Transport, is made a Companion of the Order of the Bath. Mr. T. H. Nicholson, F.S.A.A., member of the Council of the Society, receives the O.B.E. for political and public services in Barnet, and Mr. H. R. Ralph, F.S.A.A., Treasurer of Harrow Urban District Council, is similarly honoured. Mr. H. J. Callender, A.S.A.A., Town Clerk and Chief Financial Officer, Lichfield, is made an M.B.E.

We are pleased also to congratulate the following members of the profession upon the honours they receive:

Mr. S. A. White, A.C.A., M.V.O.—Knight Commander of the Royal Victorian Order.
Mr. H. Arnold, M.A., A.C.A.—C.B.E.
Mr. G. M. Bottome, B.A., F.C.A.—C.B.E.
Mr. A. E. C. Drake, M.A., A.C.A.—C.B.E.
Mr. T. R. W. B. Miller, A.C.A.—C.B.E.
Mr. J. A. Walker, C.A.—C.B.E.
Mr. J. Strachan, A.C.W.A.—O.B.E.

New Companies and New Issues

New companies registered in 1951, excluding unlimited companies and those limited by guarantee, numbered 13,356. Their total nominal capital was £95·3 million. The number of companies registered in 1950 was 370 more, but their capital was only £73 million.

The total of money raised by new issues last year, as compiled by the *Midland Bank*, was £252 million. This was considerably less than the postwar peak of £313 million reached in 1950, but it was well above the level of other postwar years, except that of 1948, which it roughly equalled. Issues by public boards have produced wide variations in the totals in recent years. In 1948, the British Electricity Authority raised £100 million and in 1950, £149 million, while last year's total includes £74 million for the Gas Council. It is noteworthy that in 1951, no oil companies raised funds and the totals for tea, coffee and rubber concerns were low in comparison with previous years.

Insurance Against Road Accidents

The death of cadets in a road accident at Chatham has brought vividly home to the public the waste of life and health that is daily occurring on the roads. All are agreed that further measures must be taken to lessen this waste, but it is commonly supposed that under the present law victims or their relatives are at least sure of receiving compensation if the accident was caused by the negligence of some other party. This supposition is not quite correct. Under the Road Traffic Act, 1930, drivers are required to insure themselves against most third party risks. By an agreement made on June 17, 1946, with the Minister of Transport, a body called the Motor Insurers' Bureau will, subject to certain conditions, satisfy any judgment obtained against an uninsured driver to the extent to which he ought to have been insured. But it is not compulsory to insure against liability for damage to property as opposed to the person or to insure against (1) liability in respect of the death or personal injury of persons employed by

the insured arising out of and in the course of their employment; (2) liability in respect of death or personal injury of passengers, unless they are being carried for hire or reward or under a contract of employment; (3) any contractual liability. Further, an old rule still survives that neither husband nor wife can sue one another in tort, and as has been shown in the recent case of *Baylis* v. *Blackwell* (1951, 2 T.L.R. 1245), a husband cannot sue his wife even if the accident occurred before marriage. The wife can, however, sue her husband for a tort committed before marriage (*Curtis* v. *Wilcox* (1948, 2 K.B. 474).

More complete protection to the victims of road accidents should be provided by legislation as soon as possible. Meanwhile owners and drivers of motor vehicles and indeed all users of the road should consider whether their present insurances are adequate.

Restraint of Professional Practice

In the case *Whitehill and Others* v. *Bradford* (reported in *The Times* of December 13) a partnership agreement between four medical practitioners provided, *inter alia*, that:

> a retiring or outgoing partner shall for the period of 21 years from the date of such retirement be prohibited from directly or indirectly carrying on or being interested or concerned in carrying on the business or profession of medicine, surgery, midwifery or pharmacy, or any branch thereof anywhere within a radius of 10 miles from the parish church of Atherstone. . . .

The Court of Appeal (Master of Rolls, Birkett, L.J., and Upjohn, J.) upheld the restriction. The length of time was not vicious for a doctor with professional qualifications, essentially a mobile person, with the whole of the United Kingdom open to him. The radius of 10 miles, in the special circumstances of this case, was not beyond what was reasonable for protecting the remaining partners from competition. The formula "directly or indirectly carrying on or being interested or concerned in carrying on the business or profession" could not have so wide an effect in a profession as in a business, which could be transacted as a limited liability company. All these points appear to apply as much to a practising accountant as to a medical practitioner.

At first blush, the decision in *Whitehill's* case may appear to conflict with that in *Routh* v. *Jones* (1947, 1 A.E.R. 758), on which we commented in a Professional Note in our issue of October 1947 (page 216), but this is not really so. The latter case concerned an employee who was not only restricted in general practice but also in accepting a public medical appointment. *Whitehill's* case deals with a partner who sold his share in a practice to the remaining members. The general legal position is that an employer is not entitled to covenant against his employee's competition, although he may protect himself against the use by the employee of knowledge of clients of a practice and their peculiarities which may have been acquired while in his service. On the other hand, the Courts will generally uphold a restraint imposed on the vendor of a business or professional practice in the interests of the purchaser (provided always that the restraint is reasonable), where they would frown upon a not dissimilar restraint imposed upon a servant in the interests of the master. It may be thought that the restrictions in *Whitehill's* case (21 years and 10 miles) are severe, but they may fall into perspective when compared with those imposed and upheld in the leading case of *Nordenfelt* v. *Maxim Nordenfelt & Co.* (1894, A.C. 535), namely, 25 years and throughout the world. The circumstances in the *Nordenfelt* case were admittedly very different, but with the modern ease of communications and increasing use of professional services, restrictive covenants which might otherwise be regarded as unjust may now be deemed reasonable.

The lessons which accountants may draw from the *Routh* and *Whitehill* cases are clear. Distinguish between servants and partners. Draft service contracts or partnership agreements with utmost care. It is interesting to note that following the *Routh* case, a new form of covenant has been drawn up and will be found in Vol. 12, *Conveyancer and Practical Lawyer* (New Series), page 331.

Problems of the Leasehold Act

A number of problems are raised by the Leasehold Property (Temporary Provisions) Act, 1951, and complete solutions can only be found by resort to the highest Courts. But this legislation is only temporary, so that any guidance of this nature is likely to come, in the majority of cases, too late and after the Act is spent or practically spent.

In a recent case in the Norwich County Court (*Kay, Ltd.* v. *Kay & Levy*), one issue was the extremely vexed one of how a reasonable rent was to be determined. Was it, on the one hand, the full open market value (without any additions for goodwill) that the premises would command, or was it, on the other hand, the rent payable under the lease? The lease might have been granted several years ago, and the rent fixed under it might be no longer an economic rent, and at any rate far below the present market rental. The Judge in the present case appears to have steered a middle course and to have fixed a rent (£550) somewhat midway between the current rent (£160) and the present market rent (at least £700).

The second point of importance raised by this case centred round the question of greater hardship. Under the Act an extension is not to be granted where to do so would cause greater hardship than the refusal to do so. On behalf of the landlords it was urged that the tenants were not a "one-man business" but owned some 70 other shops; that on the rental that ought to be granted the shop would only trade at a loss, and that, in any event, it could only earn at the best a very small profit during the year of its extension. The landlords, however, it was argued for them, would lose a firm offer from other tenants of a 21-year lease at a rental of £750 a year and a premium of £1,500. The Judge considered that, while the landlord's argument might be unanswerable if the only hardship to the tenant was to deprive him of one year's trading, that was not the only consideration: the court had also to take into account that it would be a considerable hardship to the tenant not to have interim protection and thus to lose the opportunity of taking advantage of whatever benefits might be conferred on him by the new legislation that was contemplated.

In all the circumstances, he did not consider that the case of greater hardship had been made out by the landlord, and he accordingly granted the tenant an extension for one year.

A further point to be noted was that the tenant's being in breach of his repairing covenant was held not to disentitle him in the circumstances to an extension. Taking the matter by and large and having regard to the strong financial position of the tenant, the landlord really would not be prejudiced by the grant of the extension.

The Capital Structure of Australian Companies

An investigation made by Mr. K. C. Keown, F.I.C.A., of the sources and employment of the capital of 268 companies registered on the Stock Exchange of Melbourne, leads him to these conclusions:

(1) The capital structure of most companies is sound, most of the capital employed being obtained from shareholders, and the long-term or fixed assets being financed from shareholders' contributions and retained profits. Furthermore, the proportion of total capital represented by retained profits indicates that most companies follow a fairly conservative dividend policy, endeavouring to finance expansion from within the company.

(2) In certain types of company, notably in the manufacturing group, the working capital position is not sound, large inventories being financed from short-term creditors. Recourse should be had to fixed-term, interest-bearing capital for at least part of the finance required for large inventories.

(3) A short-fall in working capital is shown to exist in many Australian companies, but it is impossible, from this survey, to say whether this is the result of deliberate financial policy or is a sign of present weakness caused by inflation and difficulties in the supply of materials. Definite conclusions on the point must await a survey of the trends over a fairly long term of years.

Mr. Keown gave the results of his investigation in the Commonwealth Institute of Accountants' Research Lecture which he recently delivered in the University of Western Australia.

Mr. Walter Holman

The Council of the Society of Incorporated Accountants, at its meeting on January 23, resolved unanimously that Mr. Walter Holman, J.P., F.S.A.A., be elected an Honorary Member of the Society.

We join with Mr. Holman's many friends in the accountancy profession in congratulating him on this high honour, by which his outstanding services to the Society have been fitly recognised. The services he rendered went far beyond those attaching to the respective offices he held, and he never spared himself when working in the interests of the Society, even though his health at times was not all that he might have desired. He won not only the esteem but also the affection of his colleagues, and indeed of every member of the Society with whom he came into personal contact. The resolution of the Council proves that Mr. Walter Holman still retains that esteem and affection.

Mr. Holman became an Incorporated Accountant in 1911, after taking Honours in the Final Examination. He was a member of the Council from 1926 to 1951, Vice-President 1935-37, and President of the Society 1937-39. He is also a past President of the London Students' Society and a past Chairman of the London District Society.

He was a partner in Messrs. Allen, Baldry, Holman & Best, Incorporated Accountants, London, till his retirement in 1950.

Shorter Notes

Simpler Census of Production

The forms for the Census of Production to be taken in 1953 (for the year 1952) will contain fewer questions than previously and only a sample will be taken of the smaller industrial concerns.

Irish Republic's Adverse Balance of Payments

Goods imported into the Republic of Ireland last year cost £205 million and visible exports fetched only £80 million. After taking account of invisible items the balance of payments was unfavourable by £68 million. Announcing this, the Minister of Industry and Commerce said that Irish external assets could not long stand the present strain, and a thorough job of reconstruction must be carried through within three years if major economic and political difficulties were to be avoided.

Interest on Bank Accounts

The Inland Revenue is sending forms to the banks and the Post Office for recording interest of more than £15 paid on accounts in the last financial year. The inquiry is being made under powers granted in the last Finance Act.

Promoting Dollar Exports from Ireland

The Irish Government has registered a company under the Companies Acts to stimulate exports to the U.S.A. and Canada. Its secretary-accountant is Mr. D. McGuane, a member of the Institute of Chartered Accountants in Ireland.

National Certificates in Commerce

The Ministry of Education has issued the conditions (Rules 104, His Majesty's Stationery Office, price 3d. net), under which it will approve schemes put forward by Establishments for Further Education for the award of the new National Certificates in Commerce.

War Damage Payments

The War Damage Commission has now made 4,373,000 payments totalling nearly £1,020 million. Last year it paid £72 million.

Business Efficiency Exhibition

A Business Efficiency Exhibition will be held at Bingley Hall, Birmingham, from February 20 to March 1. Some of the exhibits were detailed in a Professional Note on page 440 of our issue of December last.

Wear and Tear Allowances on Vehicles

The Road Haulage Association has asked the Chancellor of the Exchequer to increase wear and tear allowances on vehicles, when they are replaced, so that relief would be on the replacement value instead of being restricted to original cost.

Averaging Taxable Income

In an article in *The Journal of Accountancy* for January 1952, Mr. J. S. Cowing gives as the advantages of averaging taxable income the promotion of tax equality; simplicity and stability; the equalisation of tax on fluctuating incomes; the encouragement of investment in new enterprise; the reduction of litigation; and the avoidance of many complicated regulations. Disadvantages include greater complexity of calculation; increased difficulties from errors; and added trouble in collecting taxes during years of reduced income. He cites the averaging methods used in Britain from 1912 to 1926.

ACCOUNTANCY

FORMERLY THE INCORPORATED ACCOUNTANTS' JOURNAL ESTABLISHED 1889

The Annual Subscription to ACCOUNTANCY *is £1 1s., which includes postage to all parts of the world. The price of a single copy is 2s., postage extra. All communications to be addressed to the Editor, Incorporated Accountants' Hall, Temple Place, Victoria Embankment, London, W.C.2.*

Anticipating the Budget Statement

THE ASSOCIATION OF BRITISH CHAMBERS of Commerce has never shown many inhibitions when making its annual Budget submissions to Chancellors of the Exchequer. This year its memorial is even more radical than it usually is, no doubt reflecting pretty faithfully the restlessness of the business community under its fiscal load. If the new Chancellor concedes the half of what the Association asks, the tax structure will be transformed.

Even so, the Association limits its proposals to those which it takes to be of such urgency that they cannot wait until 1954 for amending legislation. It apparently expects, rather optimistically, that the Royal Commission on Taxation will have taken its evidence, deliberated upon it and made its report, and that the Government will have considered the recommendations and framed its legislation upon them, within two years, so that general reforms in tax will be made by 1954. However that may be, the Association does certainly pick the pressing issues to be labelled "Action this Year."

Changes in the assessment of business profits should be made in the next Budget, it is urged by the Association, so as to preserve "the capital resources of business from the damage caused by computing taxable profits on conventional lines." The Association does not consider that initial allowances would do this. They are confined to fixed assets and give only temporary relief. Their suspension this year clears the ground for a proper remedy; but if the problem is not tackled in the 1952 Budget businesses will be deprived even of the ephemeral help they obtained from the allowances.

The Association is indeed forthright on the subject of the Excess Profits Tax. "If economic considerations were decisive," it says, "the proposal . . . would be dropped." Some reasons are produced for this sharp verdict. Excess Profits Taxes are usually capricious in their incidence, depending on the accident whether profits were good or bad in the standard period; businesses are penned to the standard, allowing no play for equity or ability to pay; new concerns are tied to an arbitrary percentage on capital; efficiency or economy by management is discouraged. Worst of all, at times of inflation, Excess Profits Taxes have always measured the standard in money of a higher purchasing power than current money, thus taxing not only excess profits, measured in the units of the standard, but capital as well. But the Association hardly expects, one feels, that "economic considerations" will be decisive—and, indeed, it can surely not be imagined that the new Government will discard its pre-election pledge to impose the tax. The Association goes on to plead for mitigations in the severity of the tax, if it is imposed, and for provisions to meet the objections instanced. There should be a margin for incentive, an ample choice of substituted standards to fit hard cases, a ceiling to all taxes on profit taken in combination and, above all, it should be ensured that the profits charged to tax are profits pure and simple, not capital. We do not quarrel with these requirements. But we cannot forbear to mention that if the Association had also translated them into more precise and definite terms, they might have made a constructive contribution at a time when the new tax is probably in the formative stage. The language used is very general; more particular proposals would be weightier.

The Association regards business taxation as one whole, and sees in the advent of an Excess Profits Tax the opportunity for drastically changing the Profits Tax. This tax should be made an alternative to the Excess Profits Tax—as, indeed, the National Defence Contribution, out of which Profits Tax developed, was an alternative to the Excess Profits Tax of World War II—and should, the Association urges, be reckoned as 10 per cent. of the chargeable accounting period, computed as for Excess Profits Tax. The differential tax on distributed profits should disappear.

A strong case is made out by the Association for amendments to the Estate Duty. It submits that family businesses and private companies are being destroyed, since profits ploughed back and the savings of proprietors are passed to the Exchequer in payment of the duty. The first £2,000 of all estates should be exempt from duty. When the estate of a deceased person comprises a material interest in a business, payment of the duty by instalments should be allowed, so that forced sales are avoided. The basis of valuation laid down in Sections 46 and 55 of the Finance Act of 1940 is wholly inappropriate to ordinary businesses and penalises innocent private companies: it should be reserved only for transactions which are aimed at tax avoidance.

The Association's submission that Section 32 of the Finance Act of last year is wrong in principle will be echoed by many who are concerned to see that the incursions of the executive into the legislature's field are blocked. That Section, enabling the Commissioners of Inland Revenue to make such adjustments as they feel appropriate if they consider that the main purpose of a transaction is the avoidance or reduction of liability to the Profits Tax, gives the executive "discretionary taxing powers" and makes it "judge in its own cause." The Association does not dilute its words: "It is for the legislature to lay down the law and to define the transactions which give rise to tax, in precise terms which apply to all taxpayers. The Section should be repealed. If necessary the executive can advise the legislature of those amendments to the law which they feel to be needed and it can then be decided whether to give them the force of law."

American Accounting Trends

[CONTRIBUTED]

THE AMERICAN INSTITUTE OF ACCOUNTANTS has published its 1951 survey of trends and techniques in company reports.* This is the fifth annual survey by the Institute's research department; it covers 525 reports and also includes comments upon unusual accounting treatment found in 600 other reports. It is a masterly piece of mass-production research. There is the typically American glut of statistical data and accountancy colloquialisms. The Americanisms are liable to induce accounting schizophrenia in the British reader, but, when he has recovered, the abiding impression will probably be that there is a great similarity in the fundamental approach of accountants on both sides of the Atlantic. It is impossible, with a highly concentrated digest of this kind, to do full justice in a brief article. The best that can be achieved is to note the most interesting points for the British accountant.

Additional Financial Statements

In the U.S.A. " additional financial statements " are considered to be certified (1) when they are mentioned in the accountant's report, or (2) when they are referred to within the customary financial statements, by their position in relation to such statements and the accountants' report, or by inclusion in the footnotes to the customary financial statements. These certified " additional financial statements " embrace not only the schedules and footnotes to which we are accustomed in this country but comparative assets and earnings data covering several years. Some months ago the accounts of *Caterpillar Tractor* were commented upon in our columns (May 1951 issue, pages 193-4). They included eleven-year comparative statements of results of operations, source of net current assets, year-end financial position, fixed assets, and " ownership equities "; the auditor's report stated:

> We have made annual examinations of the accounts of the company since incorporation and, in our opinion, statements 3 through 7 (which have been retroactively adjusted as described in note 1). . . .

In the two years to end-1950, the number of American companies covered by the survey which gave additional certified statements was doubled: 82 of the total of 525.

Several British companies give similar information to Caterpillar Tractor, but group accounts have been published long enough for many more to give tabular historical data that are in every way comparative. The failure to do so may be explained by the fear of setting a precedent at a time when the inflationary bubble may be pricked. There may also be a reluctance on the part of auditors to certify pie charts and similar data, though one firm of U.S. auditors certified the statistical data, in a company president's letter to stockholders, which consisted of comparative charts depicting " How we used each dollar received from our customers in 1950," " Appropriations for capital improvements," " Selling, advertising and administrative expenses," a table of financial data," " How stockholders, employees, customers and Government shared during 1950," and a summary of the capital structure and dividend record from 1889 onwards.

It is certain that many shareholders in British companies would welcome this sort of information, even if only periodically. There is a steady turnover in shareholders, and newcomers to the share registers have frequently been supplied with only a few details of the concern by their brokers or investment advisers.

Comparative Figures

In 1940 the American Institute's Committee on Accounting Procedure recommended that the use of comparative statements be extended, but its latest survey shows that only 61 per cent. prepared them. While there is no legal compulsion as in this country to give comparative figures, some companies go further and give three-year comparisons. We recall that one or two companies in this country have done so.

Form of Balance Sheet

There has been a decided trend in the U.S.A. towards showing the balance sheet in the following tabular form: Current assets *less* current liabilities *plus* other assets *less* other liabilities *equal* stockholders' equity. Since 1947 the number of companies found to be using this method has gone up from 24 to 51, but 469 out of the 525 companies examined still use the " customary " form. Similarly, while there has been an increasing disposition to describe the balance sheet by another name, 439 companies adhere to custom, with only 86 employing another description. So far as we know there has been no similar analysis of published accounts in this country, but the tabular form has certainly gained enormously in popularity.

Uncollectable Accounts

A Committee of Terminology made recommendations on the use of the term " reserve " in 1948. It stated that the use of such a term to describe:

> a deduction which is made from the face amount of an asset

**Accounting Trends and Techniques in Published Corporate Annual Reports.* (American Institute of Accountants, 270 Madison Avenue, New York 16, N.Y. Price $10.)

in order to arrive at the amount which it is expected will be realised, as in the case of a reserve for uncollectable accounts,

was clearly contrary to the accepted meaning of the term "reserve." The committee recommended that the accounting usage of the term in the balance sheet should be limited:

to indicate that an undivided portion of the assets is being held or retained for general or specific purposes. . . . A so-called reserve for bad debts or for depreciation does not in itself involve a retention or holding of assets, identified or otherwise, for any purpose. Its function is rather to indicate a diminution or decrease in an asset due to a specified cause; the use of the so-called reserve in this area is essentially a part of a process of measurement.

Depreciation

The same committee recommended that the use of the term "reserve" in the balance sheet to describe depreciation should be discontinued, and replaced by terms which indicate the measurement process, that is, such terms as "... less amortisation to date, etc." Over the two years to end-1950 there was an increase of 60 per cent. in the total of companies displacing the term reserve in this connotation.

Retained Earnings

The term "earned surplus" is common in U.S.A. accounts, but for every three companies using it there are two who do not. What the shareholder wants to know is the growth or decline of the assets. This is achieved by the tabular balance sheet presentation which is adopted by many companies and is employed as standard by a leading London financial weekly, from which the following example has been extracted:

BALANCE SHEET GROWTH

Consolidated balance sheet as at . . .	1950 £	1951 £
Current assets:		
Cash	10,753,301	8,080,130
Tax reserve certificates	3,694,713	5,649,786
Investments	4,641,670	7,401,167
Debtors, loans, bills	4,363,198	6,508,794
Stock and work	10,378,091	12,693,256
	33,830,973	40,333,133
Less: Current Liabilities	12,151,868	13,197,335
Net current assets	21,679,105	27,135,798
Fixed assets	7,801,410	8,353,181
Trade investments, *less* amounts written off	180,781	388,908
Total ult. assets	29,661,296	35,877,887
Represented by:		
Outside interests in subsidiaries ...	1,974,234	1,969,484
Future tax reserve	2,123,932	3,924,011
7% Cumulative pref. capital ...	1,444,269	1,444,269
Ordinary capital	5,338,609	5,338,609
Reserves and surplus	18,780,252	23,201,514
	29,661,296	35,877,887

In America there seems to be a good deal of unnecessary argument about the definition of what we call "reserves and undivided profits," or "reserves and carry-forward."

Form and Terminology of Income Statement

It seems that the Research Department of the American Institute of Accountants prefers the "single-step" form of income statement to the "multiple-step." The former presents an arrangement of all income items first, followed by a listing of all costs, losses, and expenses including taxes, with no intervening balances in either group. The totals of the two groups are then deducted from each other to arrive at net income or loss for the year. The multiple-step form of income arrangement sets the items of income and expense in a more conventional grouping, and presents frequent intermediate balances before arriving at the figure of net income or loss for the year. The majority of U.S.A. companies prefer the multiple-step method, and so do companies in this country. More is the pity! There will, it is hoped, be a progressively increasing trend towards the single-step system in this country, with the relegation of all extraordinary debits and credits, plus their effect on the tax liability, to "below the line."

The Balance Sheet

Section II of the survey deals with the balance sheet, a considerable part being devoted to stock valuation, or "inventory pricing." Ten formal statements were made by the Committee on Accounting Procedure on this subject in 1947. It is shown that of the 677 bases of pricing inventories disclosed in 1950 by the 525 companies, 419, or 62 per cent., were the "lower of cost or market"; 140, or 21 per cent., "cost"; and the remainder, 118, or 17 per cent., were other bases, including "market," "less than market," "contract or sale price," and so on. The majority of companies disclosed the basis of pricing inventories, and only a small minority, 16 in number, did not do so. There is a series of typical disclosures on inventory pricing, some of which are very interesting, but too lengthy to quote. There is certainly far more information given on this important subject of stock valuation than is furnished in this country. A typical example is the following:

Merchandise inventories are stated at or below the lower of cost (prime cost as to goods manufactured by the Corporation, retail inventory method as to furnishings and invoice cost as to other merchandise, substantially on the "first-in, first-out" basis) or replacement market. These methods for pricing the merchandise inventories are consistent with the practice of prior years.

The survey reveals a marked increase in the use of the LIFO method of cost determination in 1950, and for the first time in the period during which the surveys have been made this method was used more often than any other method (before 1950 average cost was more popular). The

average cost, LIFO and FIFO, methods are used in 119, 124 and 105 instances respectively out of a total of 421.

* * * *

The American Institute of Accountants stated in 1949 that " the growth in recent years of the practice of using long-term leases as a method of financing has created problems of disclosure in financial statements." It was pointed out that the question of disclosure in financial statements of the fixed amounts payable annually under such leases had been raised by the fact that " one of the effects of the long-term lease as a substitute for ownership and mortgage borrowing is that neither the asset nor any indebtedness in connection with it is shown on the balance sheet." It called for detailed information, which is certainly not given by U.K. companies, many of which are content to lump freeholds with leaseholds. An interesting example of the nature of information disclosed is the following footnote to a set of accounts of a theatres corporation:

> The minimum annual rentals upon real property leased for terms expiring after December 30, 1950, aggregate $157,230.00 as follows:
>
> | *Years of Expiration* | *Number of Leases* | *Minimum Annual Rentals* |
> |---|---|---|
> | 1951-1953 ... ... | 2 | $10,800.00 |
> | 1954-1956 ... ... | 6 | 41,660.00 |
> | 1958-1959 ... ... | 7 | 32,820.00 |
> | 1963-1965 ... ... | 6 | 71,950.00 |
> | | 21 | $157,230.00 |
>
> One of the lease agreements provides for additional rental based on a percentage of receipts.

It would be very revealing if property companies divulged information of this kind for the benefit of shareholders and their advisers.

The Rearmament Programme

The U.S.A. rearmament programme and the Renegotiation Act of 1948 have made their impact on financial statements of companies performing work on war contracts. The survey notes that almost all of the aircraft companies it includes have mentioned in one way or another the possible effect of renegotiation upon their current year's profits. In many cases these companies have indicated that subsequent refunds to the U.S. Government would not be necessary, and, therefore, that no provision for refund was reflected in their financial statements. To quote part of but one footnote:

> Most of the company's 1950 sales were under contracts which provide for retroactive revision of prices either upward or downward on the basis of negotiation subsequent to actual production cost experience. Many of these contracts are of the incentive type, wherein final target costs and prices are set by negotiation after actual cost experience, with the Government and the contractor thereafter sharing in any saving or extra cost which may be experienced in the remainder of production. As stated in previous annual reports, it is the company's practice under these price revision contracts to record deliveries, in accounts receivable and sales, at cost plus estimated profit. The estimated profit is determined on the basis of the percentage of profit expected to be realized on the contract as indicated in the bid estimate or by subsequent studies and price-revision proceedings . . . it is not expected that final determination will result in any substantial refunds, and no provision therefor has been made in the accounts. The Government has determined that no refund is required under the Act for the business of the 1948 fiscal year. No determination has been made yet concerning 1949 business.

This information is of value, but it may be an obligatory disclosure. One concern reveals that it has provided for an estimated refund of $250,000, while another has created a reserve of $2,500,000 as " reserve for renegotiation or additional costs on contracts completed in prior years." There is the anachronism that this reserve is included under current liabilities! It is very doubtful if British companies would be disposed to reveal information of this kind. One cogent reason for not doing so is that it would be unwise to advertise profitable bombing areas to a potential enemy.

Minority Interests in Subsidiaries

It may seem surprising to readers that the survey should deem it worth while to draw attention to the fact that in the great majority of cases there was some disclosure of the company's percentage of ownership in its unconsolidated subsidiaries. There are many quoted examples illustrating the treatment of investments in and advances to unconsolidated subsidiaries, and it is difficult to see from these why American companies have not emulated those British companies which voluntarily furnished fully consolidated accounts before the 1948 Act. In many of the examples there is a full and frank disclosure of the net book worth of the investments and of the profits attributable to the shareholding, but the shareholder would no doubt welcome details of how far investments in subsidiaries were backed by assets.

Accelerated Depreciation and Plant Replacement

Accelerated depreciation charges or charges for increased cost of plant replacement were disclosed by 28 of the 525 companies included in the annual survey. One company charged in its income account accelerated depreciation of $1,420,641, and transferred $10,000,000 from reserve for investments and securities to reserve for increased cost of replacements. There may not be quite the same sense of urgency in America over the fixed assets replacement problem as exists in this country, though it has been discussed by several company chairmen. Some will continue to argue, in any event, that the total of reserves and carry-forward smells as sweet by any other name, and will point out that it is only in a minority of cases that the fixed assets replacement reserve, and the annual transfers that are made to it, are acknowledged by directors on this side of the Atlantic to be carefully calculated financial allocations to straddle completely the gap between historical cost and replacement cost.

Extraordinary Items

It is encouraging to have confirmation from the U.S.A. of a view frequently expressed in ACCOUNTANCY. The Committee on Accounting Procedure listed (*a*) general purpose contingency reserves, (*b*) inventory reserves, (*c*) "extraordinary items, *which, if included, would impair the significance of net income*" (our italics), and (*d*) excessive costs of fixed assets and annual appropriations in contemplation of replacement of productive facilities at higher price levels. It came to the conclusion that items (*a*), (*b*) and (*d*) should be displayed in the retained earnings statement, rather than in the income statement after the amount designated as net income. As to extraordinary items it stated its preference for displaying them in the statement of retained earnings, and then rubber-stamped the treatment prescribed by the Securities and Exchange Commission, namely, that these items "may either be treated in the foregoing manner or may be shown at the bottom of the income statement." The committee did not touch on the impact of extraordinary items on the tax debit against profits, a point which is evidently covered by its insistence that the figure of net income should be clearly and unequivocally designated, so as not to be confused with the final figure in the income statement.

The Accountants' Report

In October 1948, the American Institute recommended the use of the following revised short form of accountants' report. It says much for the Institute's authority that this form was used in full, with minor word variations, in 452 of the 525 company reports examined, while 61 modified the recommended form by stating the opinion in the opening sentence.

> We have examined the balance-sheet of X Company as of December 31, 19— and the related statement(s) of income and surplus for the year then ended. Our examination was made in accordance with generally accepted auditing standards, and accordingly included such tests of the accounting records and such other auditing procedures as we considered necessary in the circumstances.
>
> In our opinion, the accompanying balance sheet and statement(s) of income and surplus present fairly the financial position of X Company at December 31, 19–, and the results of its operations for the year then ended, in conformity with generally accepted accounting principles, applied on a basis consistent with that of the preceding year.

This section of the survey covers nearly 18 pages and consists mainly of extracts from accountants' reports that contain additional information. A typical, and commendably brief, example is the following:

> The response to requests for confirmation of Government receivables was not satisfactory, but we have otherwise satisfied ourselves as to these items.

An interesting comment on the reliance on local audits is contained in the following extract:

> The accounts of foreign subsidiaries were examined or tested by Independent Public Accountants in the respective foreign countries as of August 31, 1950, in accordance with programme which we prepared. We have reviewed their reports relating to such examinations, have had no exceptions to take to the adequacy and sufficiency of the examinations and tests made by such other accountants, have accepted such work in the same manner as if it had been done by us, and have accepted such reports as a proper basis for consolidating the accounts of foreign subsidiaries with the accounts of the domestic companies as of August 31, 1950.

There are many explanatory examples of auditing procedures followed. In their report on the accounts of an American tobacco company the auditors state:

> We were present when inventories were taken by the company and checked procedures followed in determining quantities and valuation.

The auditors to a cold storage company elaborate their their certificate, as do many other auditors. The following extract is about a half of the full certificate:

> The cash, securities and notes were accounted for by inspection or by acknowledgments received from the depositaries or custodians. Notes and accounts receivable balances were compared with the companies' records and were reviewed and discussed from the standpoint of collectibility ; a comprehensive test confirmation of the receivable balances was made by correspondence direct with the debtors. Purchase invoices covering the major portion of additions during the year to the companies' fixed asset accounts were inspected. We satisfied ourselves by the examination of records, invoices and agreements, by inquiry and other tests, including correspondence direct with banks and attorneys, that all ascertained liabilities of material amounts were recorded on the companies' books as at March 31, 1951 and are reflected in the accompanying balance sheet.

There are altogether 49 examples "relating to generally accepted acounting principles and the consistency of their application." Several of these deal with depreciation and changed methods of stock valuation, the old and new bases being described, but it is difficult to comment on these without the full accounts. There are 24 examples relating to uncertainty, many of these being dictated by the Renegotiation Act, which has already been discussed.

General Improvement in Presentation

Mr. Carman C. Blough, research director of the American Institute of Accountants, reported with the release of the yearly survey that management was accepting a greater accountability to ownership. He declared that progress was particularly evident in clarifying accounting terminology. "Corporate finances are discussed in language understandable to the average stockholder as well as those who are directly concerned with the statements." We wish we could truthfully say the same thing of British companies. True, many have blazed the trail, but the majority show no willingness to follow it, and, alas! some resort to complex presentations which seem deliberately designed to confuse the shareholder.

Leaves from the Notebook of a Professional Accountant

The Taxability of Unlawful Profits

By ERNEST EVAN SPICER, F.C.A.

MANY YEARS AGO, THE LATE MR. BERNARD SHAW WROTE an " unpleasant " play entitled *Mrs. Warren's Profession.*

As the occupation of " running " houses of ill-repute was unlawful in this country, Mrs. Warren operated abroad, in countries which, wisely or otherwisely, rightly or wrongly, regard these matters from a broader viewpoint than we do.

The profits were not inconsiderable, and as Mrs. Warren apparently spent much of her time each year in the United Kingdom, she was doubtless deemed by the Revenue authorities to be not only resident, but ordinarily resident, in this country. She was thus liable to be assessed to income tax on the remittance basis in respect of her foreign earned income.

Here we have the anomaly of a lady engaged in a " profession " which would land her in jail if practised within the United Kingdom, but which merely renders her liable to income tax on remittances when practised abroad.

This case raises the wider issue as to whether the Revenue authorities do not soil their delicate fingers by participating in such tainted profits.

In this connection it is noteworthy that an Irish Court —at any rate on one occasion—refused to take the risk.

On the other hand, Mr. Justice Rowlatt, when dealing with the case of *Mann* v. *Nash*, dismissed all such laudable sentiments as " mere rhetoric."

The position of a burglar, operating abroad, whilst ordinarily resident in this country, would presumably be identical with that of Mrs. Warren, but if he operated within the United Kingdom, weighty legal problems would need to be considered before any clear-cut ruling could be given.

In the first place burglary, pure and unalloyed, is not a trade within the meaning of the Statute, and therefore, in normal circumstances, the profits and gains arising from such activities could not be assessed to income tax under Case I of Schedule D.

We have it on the authority of Lord Sands in *Lindsay* v. *Commissioners of Inland Revenue* that " Crime, such as housebreaking, is not a trade and therefore the proceeds are not caught by the tax."

Apparently, however, the utmost care must be exercised by the burglar to keep his activities absolutely pure and unalloyed if he wishes to avoid being assessed, because, in the case of *The Canadian Minister of Finance* v. *Smith* (1927, A.C. 193), Lord Haldane observed that " once the character of the business has been ascertained as being of the nature of trade, the person who carries it on cannot found upon elements of illegality, to avoid the tax."

Lord Morison adopted a very similar line of reasoning when he remarked that " the burglar and the swindler, who carry on a trade or business for profit, are as liable to tax as an honest business man, and in addition, they get their deserts elsewhere."

The burglar should thus take warning that, if he persists in entering the ranks of " trade " or " business," he does so under a very serious handicap.

So much is this the case that—with apologies to the late Sir W. S. Gilbert:

> Taking one consideration with another
> The burglar's lot is not a happy one.

There is another aspect of this matter, which cannot be entirely overlooked, although in referring to it, we recognise how delicate must be our approach.

We all know that in this country criminal law is administered with scrupulous fairness, and that if the scales of justice are ever weighted, it is always in favour of the occupant of the dock. In fact, learned Judges never fail, in " summing up," to stress every point brought out in evidence even remotely favourable to the accused; and yet, when dealing with wrongdoers in civil actions, these self-same Judges, despite their learning and their robes, occasionally appear to indicate impatience with legal technicalities helpful to the respondents.

Did not Lord Morison, after admitting that the profits of a burglar could not be assessed, relieve his pent-up feelings by remarking:

> It is, in my opinion, absurd to suppose that honest gains are charged to tax and dishonest gains escape?

And did not Lord Darling, on one memorable occasion, hold that " it was not in the public interest that there should be honour amongst thieves " ?

And yet, was there ever an occupant of the Bench who held honour more sacred than did this witty and learned Judge?

It is clear from what has been said that burglary, pure and unalloyed, falls outside the purview of the taxing Statutes, not, be it understood, by consideration of morals,

but because the burglar does not normally carry on a trade, or a business in the nature of a trade.

It would seem, however, that provided an element of trade or business can be discerned, notwithstanding the illegality of the activities, every effort will be made to establish as a fact this essential state of affairs. Thus, if a trader were able to increase the profits of his business by combining housebreaking activities with it, those profits would unquestionably be subject to tax.

It will be realised, however, that burglars, as a class, do not trouble themselves overmuch regarding the rules and regulations governing income tax, and in consequence, case law dealing with the assessability of the profits and gains arising from their activities is necessarily somewhat meagre.

It may therefore be more convenient if we choose a less extreme example to illustrate the above remarks.

Southern (*H.M. Inspector of Taxes*) v. *A.B.*

This case came before Mr. Justice Finlay in the year 1933 and the question at issue was whether the profits of a bookmaker, arising solely from street betting, could legally be assessed to income tax under Schedule D.

It was freely admitted that no part of the business transacted by A.B. was lawful betting, and that the activities involved offences, for which penalties could be imposed.

A.B. had been assessed to income tax in respect of the profits arising from these illegal betting transactions and, being dissatisfied, had appealed to the Special Commissioners.

The Commissioners ruled in his favour, arguing that the profits could not legally be assessed, and accordingly discharged the assessment.

They supported their finding as follows:

> In previous cases, which had been brought before the Special Commissioners, a lawful business had been mixed up with an unlawful one and the Special Commissioners had not felt called upon to disentangle from assessment so much as might be unlawful and criminal. The present case, however, was conducted before us upon the footing that no part of the business . . . was lawful . . . and that in fact, its activities were, in the eyes of the law, criminal.
>
> This was not disputed by the representative of the Crown. . . .
>
> Whilst it was not for us to comment upon the effect of non-enforcement of the laws . . . we did not consider that the Revenue could lawfully claim income tax upon the profits made as a result of such non-enforcement. . . . We accordingly discharged the assessments.

The learned Judge overruled the decision of the Special Commissioners and held that A.B. was carrying on a trade and that as profits had resulted, those profits were legally subject to tax, notwithstanding the fact that they were unlawful.

It is interesting to note that, following an Order made by another Judge of the High Court, no names were disclosed in this case throughout the proceedings. The Revenue authorities were doubtless eager to assess the unlawful profits made by A.B. but, on the other hand, had no desire to appear vindictive. Further, having regard to the secrecy upon which they insist when dealing with the financial affairs of taxpayers generally, it might have proved embarrassing to them to bring the action, had not the order for anonymity been made.

From certain remarks made by Mr. Justice Finlay when referring to the order, it would seem that his views regarding the non-disclosure of names did not wholly coincide with those of his brother Judge who made the order. He stated, however, that it was binding on him.

* * * *

Reverting to our analysis of the position of the burglar *vis-a-vis* the Inland Revenue, and assuming that no element of trade can be discerned in his activities to enable them to be assessed under Case I of Schedule D, could it be held that he was engaged in a profession and thus assessable under Case II ?

We are inclined to think that the criminal nature of his activities would inevitably rule out this possibility, but nevertheless he might argue—with some show of justice—that the status of " profession," so freely accorded to Mrs. Warren's occupation, should not be withheld from his.

Against this we would suggest that the term " profession," associated with Mrs. Warren's calling, was, in reality, purely a " courtesy status," which would not have been extended to Mr. Warren, were he similarly engaged, even though, misguidedly, he had called himself a " gentleman."

Can we class the burglar's activities as constituting a vocation?

Once again we are inclined to think that the answer must be in the negative, in which case—assuming our view to be generally correct—we fail to see how, in normal circumstances, the profits arising can be assessed at all.

Let us, however, momentarily cast aside these melancholy reflections and assume that the authorities somehow find it possible graciously to open to the " erring ram " one of the gates—trading or vocational—of the Revenue sheepfold, thus enabling these perilously earned profits to be assessed.

In such circumstances, what will be the duty of H.M. Inspector of Taxes?

Will he keep his Revenue eye wide open and the other eye firmly closed? He may, of course, seek guidance from Head Office, but does anybody seriously suggest that he would so far forget his solemn pledge of secrecy as to betray the confidence of the " honest " burglar? Perish the thought!

Let us choose an example from Mr. Greatheart's Notebook to illustrate how duty may be performed without the smallest breach of faith.

It will be obvious to our readers that details which would help to identify the actors in this little drama must be either suppressed or slightly varied, but, with due discretion, this true story may be told.

ILLUSTRATION

With the assistance of his wife and his daughter Emma, Mr. Herbert Horkins ran a fishmonger's shop, not very far from Billingsgate Market, and in order to augment his income, acted as part-time salesman in another, much larger, establishment, to wit, Crustacean Fisheries, Ltd.

The business flourished from the very start and it would

be difficult to determine to which of the three " partners " the greatest credit for this happy state of affairs was due.

Mr. Horkins was responsible for all the " buying " and he certainly understood how to stock his shop with the finest quality fish, at astonishingly low prices.

Miss Emma Horkins, with her quick gift of repartee and comely appearance, proved irresistable to the male customers and rapidly attracted to the shop a large and valuable clientele, while Mrs. Horkins operated the cash register, wrote up the books and kept a sharp eye on the customers, to ensure that her daughter was not subjected to any undue familiarity.

Accounts were prepared each year as at December 31, and a neatly typed copy, signed by Mr. Horkins, was regularly submitted to the Inspector of Taxes within three weeks of the balancing date.

The Inspector, after examining the profit and loss account for the year 19—, was struck by the very high profit earned by Mr. Horkins, and having compared the percentage of gross profits to turnover with that disclosed by the accounts of other fishmongers in his district, reached the conclusion that a mistake—unusual, inasmuch as it was unfavourable to the taxpayer—might prove to be the solution of the mystery.

Now the Inspector was a very conscientious man, with a lofty sense of duty, both to the Revenue and to the public, and it also chanced that twice in every week he took home with him a small basket of fish, which he purchased at Mr. Horkins' shop, and which was specially selected for him, as a favoured customer, by the sprightly and accomplished Miss Emma Horkins.

In these circumstances, he felt bound to request Mr. Horkins to call at his office, so as to ensure that no injustice was done.

It thus happened that on one particularly bright Thursday afternoon, Mr. Horkins was ushered into the Inspector's private room, and after a few generalities, with enquiries regarding the health of Miss Emma, the Inspector " got down " to business.

He called attention to the abnormally high percentage of profit disclosed by the accounts, which suggested a possible error in book-keeping, adding that while he was called upon to see that every taxpayer fulfilled his obligation to the Revenue, it was no part of his duty to penalise unduly a hard-working trader.

Mr. Horkins smilingly expressed his warm appreciation of the courtesy which had prompted the Inspector's inquiries, but nevertheless assured him that the accounts prepared by his wife and submitted by himself were correct in every particular.

He reminded the Inspector that he was employed as a part-time salesman by Crustacean Fisheries, Ltd., and owing to their very lax system of control, he was able to stock his own shop each day with a considerable quantity of first-quality fish, without having to pay for it. It was clear, therefore, that his percentage of gross profit to turnover must largely exceed that of any of his competitors.

Naturally, he would not wish his trifling peccadilloes to be generally known, but obviously as between taxpayer and Inspector of Taxes there should be no secrets.

This disclosure caused the Inspector the gravest disquietude and for a full half-hour, after the interview had terminated, he remained glued to his office chair wondering wherein lay his duty.

Eventually, with great reluctance, he reached the conclusion that he must change his fishmonger.

* * * *

We now turn to a consideration of the important case of *Lindsay, Woodward & Hiscox* v. *The Commissioners of Inland Revenue*, to which brief reference has already been made.

It came before the First Division of the Court of Session, Scotland (The Lord President, Lord Sands, Lord Blackburn and Lord Morison) on November 15 and 16, 1932, and two days later judgment was given unanimously in favour of the Crown, with costs.

During the years 1922 and 1923, at a time when " prohibition " was in force throughout the United States of America, a large quantity of whisky was shipped by the appellants to that country.

These transactions involved a serious violation of the law of the United States, which, though highly reprehensible from an ethical point of view, was not, of itself, a violation of the law of this country.

Unhappily, whisky could not be shipped to America, duty free, without deceiving the Customs authorities of this country, by means of wicked and untrue declarations, as to the ultimate destination of the whisky.

Thus, from every angle, the venture was steeped in illegality and tainted with fraud, and so conscious were the appellants of this appalling state of affairs that when, shortly prior to April 5, 1929, they were assessed by the Additional Commissioners of Income Tax on the sum of £75,000, they appealed, without a moment's hesitation, to the Special Commissioners.

There can be little doubt that they found themselves impelled to take this step under an overwhelming sense of duty, rather than from any selfish motive, because, by pressing for the assessment of profits arising from transactions so fundamentally unlawful, the Inland Revenue Department might appear—in the eyes of the public—to be condoning a crime and thereby to become an accessory after the fact.

While willing to make full confession of their own grave irregularities, they could not stand aside and see a Government Department dragged through the mire on their account, without raising a finger to prevent such a catastrophe.

Their action, therefore, abortive though ultimately it proved to be, must surely commend itself to all right-thinking citizens.

The following is a brief summary of the facts, none of which were disputed:

(1) All three appellants were connected with the wine trade and were thus fully acquainted with the conditions governing the export of dutiable spirits, duty free.

Under these conditions the exporter was required to declare the destination of the spirits and to enter into a bond under penalty, forfeitable if the spirits were not exported to the declared destination.

(2) Lindsay provided the whisky and Woodward contributed £4,000 and Hiscox £1,200 towards the expenses. It was agreed initially that any profits resulting from this unlawful

gamble should be shared in the proportions 9/20ths, 9/20ths and 2/20ths respectively.

Towards the end of the year 1922, however, it was agreed that all profits resulting from sales concluded after that date should be shared equally.

(3) The shipping of the whisky from Perth was arranged by Lindsay and was carried out gradually over a period of two years. He also made himself responsible for the sale of the whisky in the United States.

Woodward and Hiscox did not take part in, nor were they consulted as to, the actual arrangements, but from time to time they met Lindsay and were informed that whisky had been shipped successfully to the United States and had been sold at satisfactory prices in that country.

So innocent of all active participation in this unlawful venture were these two appellants that, apart from what Lindsay chose to tell them, they knew absolutely nothing. They had never seen the whisky, nor did they know whether it had been shipped direct to the United States or to some intermediate destination.

It is true that on about half a dozen occasions Hiscox had been asked to accept and clear cheques from American "bootleggers," but surely there was nothing very wrong in obliging a friend in this blameless manner.

(4) During the years 1922 and 1923 the Customs Department in this country were surprisingly lax in the performance of their arduous duties and failed to make close inquiry with a view to ascertaining whether, in fact, exported spirits had reached the declared destinations; nor had they insisted upon the production of clearance certificates.

This naturally greatly facilitated Lindsay's operations. But towards the end of 1923 the Customs authorities became much more rigorous in enforcing the conditions attaching to the bonds under which spirits were exported, and thus the whole business became increasingly perilous. So much was this the case that the appellants decided that it would be just and convenient to close down all their unlawful operations.

This was really most unfortunate because they utilised the profits, which they had realised on the illicit whisky transactions, in the purchase of a wine business in Portugal, which ultimately proved almost a total loss. That, however, is another story.

(5) At the time of the hearing before the Special Commissioners, Lindsay, although professionally represented, had gone abroad, and it was reported that he had no intention of returning to this country. We wonder why!

Woodward was absent ill and a medical certificate was tendered on his behalf, and in consequence the whole burden of giving evidence fell upon Hiscox.

(6) On behalf of the appellants it was contended as follows:

(*a*) That the transactions sought to be assessed were criminally illegal and known to be so by the appellants. In consequence, the proceeds arising therefrom were not assessable to income tax.

(*b*) That no trade or business had been carried on by them or any of them, as partners, or joint adventurers, or otherwise.

(*c*) That the moneys received by them were not annual profits or gains, but were capital accretions, which were not assessable to income tax.

(*d*) That the transaction was a speculation, in which three persons put up a stake, under the honourable understanding that if the gamble proved successful, the proceeds should be divided in certain agreed proportions.

(*e*) That as no trade or profession was carried on jointly, the joint assessment made upon them was bad.

(*f*) That the whole transaction sought to be assessed, including the purchase of the Portuguese wine business, was one and the same, and that on the whole transaction there was, in fact, no profit or gain, but a loss.

(7) The cash advances of £4,000 and £1,200 made by Woodward and Hiscox respectively were repaid at an early date, independently of any accounting at the termination of the so-called partnership or joint adventure. This circumstance, as the Lord President (Clyde) remarked, when delivering his judgment, was of importance, and he assumed that it had been taken into consideration by the Special Commissioners before deciding, as a question of fact, that a contract of partnership, warranting a joint assessment on the three appellants, had been made.

He indicated very clearly that had the question fallen to him to decide, he would have held that "partnership" had not been proven.

(8) It was ascertained that the bonds given by Lindsay to the Customs authorities had been discharged and destroyed.

The Special Commissioners heard the appeal and gave a somewhat halting decision adverse to the appellants.

While rejecting the contentions that the transactions were mere speculations or that there was no partnership or joint adventure, in the income tax sense, or that a legal trade or a possibly legal trade was being carried on, they held that an illegal trade was, in fact, being carried on by a partnership or as a joint adventure.

They endeavoured to distinguish sharply between transactions which were merely illegal and those which were both illegal and criminal. They were unable, however, in this case, to find any element of criminality; merely illegality.

This is interesting because when A.B., in the case which we have already considered (*Southern* v. *A.B.*) appealed against an assessment made upon him, the Special Commissioners held that street betting was so criminal as to be outside the purview of the taxing statutes, and in consequence they discharged the assessment.

Lastly, they appeared to hesitate between the decision in the Irish Court of Appeal, which kept the hands of the Revenue authorities pure and unsullied, and the decision in the Privy Council case (*Canadian Minister of Finance* v. *Smith*) which was, perhaps, a trifle less refined.

Eventually, however, they reached the conclusion that the principles underlying the judgment in the latter case involved considerations of national import, far weightier than a mere "Revenue wash and brush up," even though a clean towel were thrown in, and in consequence gave a decision favourable to the Crown.

The appellants, on hearing this adverse ruling, immediately called upon the Special Commissioners to state and sign a Case for the opinion of the Court of Session, which was done, after the liability, under their decision, had been amended to the agreed figure of £36,108.

It is unnecessary to consider in any detail the four judgments which were delivered.

In each case it was held that a trade, or business in the nature of a trade, had been carried on and that the "frauds" on the Customs authorities were merely "incidents of the trade."

Thus, the noble and unselfish efforts of the three appellants to keep the reputation of the Inland Revenue authorities spotless were in vain.

[*To be concluded*]

The Taxation of Excess Profits

We reproduce in full a memorandum which has been submitted by the Council of the Society of Incorporated Accountants to the Chancellor of the Exchequer.

1. In formally announcing the decision to impose a tax on excess profits, the Chancellor of the Exchequer used the words:

> Before the election we announced the intention of imposing a form of Excess Profits Tax to operate during the exceptional period when the abnormal process of rearmament created a fortuitous rise in profits. Speaking for the Government, I confirm that intention.

2. The projected tax is to operate from January 1, 1952, and it has been stated that regard would be had to experience and to the American system.

Excess Profits Tax in the United States

3. No experience of the American system is yet available. The original Act, which was passed in 1950, runs to over 100 pages and, moreover, was extensively amended in 1951. Comments suggest that, in a desire to avoid the inequities of the wartime impost and the extravagance which it encouraged, a most elaborate and complicated legal structure has been built up. Doubts have already been publicly expressed whether the net yield of the tax is likely to justify the burden which the intricacies of computation will throw upon the Revenue Department on the one hand, and upon taxpayers and their professional advisers on the other.

4. Such doubts must arise even more acutely in connection with any proposal to introduce an impost on similar lines in the United Kingdom. In relation to natural resources and in almost every other respect the situation of the United Kingdom is markedly inferior to that of the United States, while the high level of existing taxation here must minimise the yield from any new tax on trading profits.

Excess Profits Duty, 1914 to 1920

5. This tax was probably the clearest example of a levy on "excess profits," that is, upon the amount by which the profits of the chargeable years exceeded normal or standard profits. In the years 1911 to 1913, most of British industry enjoyed stable conditions and reasonable prosperity, and the majority of the businesses liable to Excess Profits Duty, therefore, adopted the normal standard of the average of two of these three years. For the rest, alternatives were available which were not ungenerous and, in particular, when recourse was necessary to a percentage on capital employed it was possible to obtain an increase in the normal percentage where the trade, as a class, involved special risks. The Board of Referees, whose function it was to determine such increased percentages, awarded to undertakings whose operations were in the United Kingdom increases ranging from one-half of 1 per cent. up to 10 per cent., and to concerns operating overseas the maximum increase was 21½ per cent., so that this valuable right was of wide application. The initial rate of the Duty on the excess of the profits over the chosen standard was 50 per cent. It rose successively to 60 per cent., and then to 80 per cent., which persisted until the end of 1918. For 1919 the rate was reduced to 40 per cent., but was raised to 60 per cent. thereafter.

6. In the event, the steep and general rise in prices which persisted throughout the first world war caused a rapid progression of profits, conventionally measured, with the result that the Excess Profits Duty made a most important contribution to the national revenues. While the gross yield of the duty must be discounted by the income tax (and super tax, where applicable) which would otherwise have been leviable, it is probably true to say that the Exchequer benefited by between 70 and 75 per cent. of the Excess Profits Duty collected, since in the years of assessment in which income tax liabilities were affected by the payment of Excess Profits Duty, the standard rate of income tax varied from an initial minimum of 3s. (1915-16) to a maximum of 6s. (1918-19 to 1921-22) and then fell successively to 5s. and 4s. 6d. in the next two years.

7. Another factor which undoubtedly contributed to the substantial net yield of the Excess Profits Duty was the virtual absence of controls of any kind at the outbreak of hostilities. These were introduced by degrees, and by the end of the war costing of Government contracts was of general application.

Excess Profits Tax 1939 to 1946

8. Trading experience in the specified standard years (1935 to 1937) for the Excess Profits Tax was certainly more variable and generally less satisfactory than during the corresponding period for the Excess Profits Duty. The alternative standards made available were also less generous and, in particular, an increase in the statutory percentage was only permissible to concerns exploiting certain wasting assets and then was limited to a maximum of 4 per cent.

9. The initial rate of the tax was 60 per cent., which was raised to 100 per cent. after twelve months, where it remained for 5¾ years and then was reduced to 60 per cent. for the last year of operation.

10. As the result of previous experience controls of all kinds were promptly established and rapidly extended and costing of all classes of Government contracts was far-reaching in scope and rigorous in application. For these, among other reasons, the gross contribution to the Exchequer of the Excess Profits Tax was less significant than that of its predecessor, and the net yield was even less important because the gross amounts collected were effectively discounted by heavier standard rates of income tax in the years of assessment affected, ranging from 8s. 6d. (1940-41) to 10s. (1941-42 to 1945-46) and 9s. thereafter. Where sur-tax also was applicable the net amount retained by the Exchequer could fall to 2½ per cent. of the Excess Profits Tax exigible.

11. A novel feature of the Excess Profits Tax was that under the provisions relating to principal and subsidiary companies, non-resident companies were brought within the taxable field, where not less than nine-tenths of the Ordinary share capital of such companies was beneficially owned by a parent company resident in the United Kingdom. The concept that the profits of a group are one and indivisible has an attractive simplicity, but its realism is suspect except in the case of a vertical grouping with all subsidiaries wholly owned. In practice, this unprecedented extension of the ambit of United Kingdom taxation produced many curious results, as was to be expected from the artificiality of the initial test of liability and the rigidity of the provisions themselves.

12. Excess Profits Tax was at once more elaborate and more rigorous in conception than Excess Profits Duty, features which were emphasised to an extreme degree when the rate was raised to 100 per cent. Under the dire conditions prevailing in 1940 it was understandable that a proposal to conscript all additional profits attributable to war conditions should find favour, but for a large proportion of the businesses liable, the confiscation of all earnings above artificial and inadequate standards had deplorable consequences. These were sufficiently potent to compel recognition two years later in the form of the postwar credit which has proved to be a contingent reduction of the rate of Excess Profits Tax to 80 per cent. This belated action did not suffice to eradicate many of the ill-effects of the attempted confiscation.

Other Taxes upon Excess Profits

13. To complete the review of previous levies reference must be made to the Munitions Levy and the Armaments Profits Duty. The former applied in the 1914-18 war to establishments controlled by the Ministry of Munitions and was chargeable at 100 per cent. on profits above a standard fixed by the Minister. It was of short

duration and was soon merged into Excess Profits Duty.

14. The Armaments Profits Duty was imposed by the Finance Act, 1939, but was never operative. It was repealed by the Finance (No. 2) Act, 1939. It was a selective tax at the rate of 60 per cent. on excess profits derived from armament contracts. It applied only to businesses declared to be substantially engaged in the supply of armaments by the Minister of Munitions and receipts from armaments contracts of not less than £200,000 per annum was the test of liability. Provision was made for the inclusion of sub-contractors. In addition to a profits standard on normal lines an exceptional profits standard could be awarded by the Board of Referees and the statutory percentage on increases in capital was 8 per cent. for companies not controlled by their directors and 10 per cent. in all other cases.

PRESENT CONDITIONS

15. The natural approach to the proposal for a new levy on excess profits is to consider this against the background of the existing taxation structure.

Income Tax: Standard rate 9s. 6d. in the pound (47½ per cent.).

Sur-tax: Applicable to individuals.

Combined rates of income tax and sur-tax:

	Rate	*Per cent.*
£2,500-£5,000	12s. to 14s.	60 to 70
£5,000-£10,000	15s. to 17s.	75 to 85
£10,000-£15,000	18s. to 19s.	90 to 95
From £15,000	19s. 6d.	97½

Profits Tax: Applicable to companies. 50 per cent. with relief at 40 per cent. on profits not distributed, but this relief is revoked in the event of subsequent distribution by way of dividend or in liquidation.

Combined rate of profits tax and income tax: Minimum 10s. 6.6d. (52.75 per cent.); Maximum, 14s. 9d. (73.75 per cent.).

INDIVIDUAL TRADERS AND FIRMS

16. The whole of the profits of enterprises in these categories automatically form part of the total statutory incomes of the individual proprietors. It is clear from the steep gradation of the combined rates of income tax and sur-tax that no new impost could produce any substantial net yield to the Exchequer.

17. The anomaly is readily apparent, moreover, that the smaller the business the heavier would be the proportionate burden in the sense that a higher net percentage of the new tax falls upon the trader and is retainable by the Crown.

18. This is an inversion of all that is economically desirable, since the health of the national economy demands that the establishment and development of smaller businesses should be encouraged by all possible means. Many of the existing businesses of this type will have been established by men released from the Forces after demobilisation.

19. In the light of these considerations, it is difficult to discern any convincing reason which could justify a decision to superimpose any new impost upon the burden already sustained by individual traders and firms, since it appears extremely doubtful whether the net accretion to the Exchequer could justify the labour and expense of computation of any form of Excess Profits Tax.

20. If this conclusion is acceptable it would be logical to extend the same treatment to private companies, provided the profits of such companies were reflected in the individual returns of total income of the proprietors.

21. A similar exemption in relation to Profits Tax is to be found in Section 31, Finance Act, 1947, but for the projected Excess Profits Tax it might be desirable to provide that the exemption should be a matter of election by each private company. It would not be necessary to confine this election to companies falling within Section 21, Finance Act, 1922 (companies under the control of not more than five persons).

22. On this line of reasoning any new Excess Profits Tax, whether selective or general, would apply only to public companies and possibly to a few of the larger private companies.

COMPANIES—COMMENTS ON EXISTING TAXATION

23. Looking to the possibility of Excess Profits Tax being confined to limited companies, further examination is necessary of the taxation structure applicable to companies in recent years. (*See table below.*)

24. In the event of the contingent liability to Profits Tax becoming actual, income tax relief will be due by reference to the standard rate operating at the time, but will only become fully effective if profits chargeable to income tax equate the total contingent liability to Profits Tax. In the possible event that chargeable profits to this extent are not to be found, the total taxation liability can ultimately attain 92.75 per cent. for the periods in which the contingent liability arose.

25. The foregoing is common to all companies subject to Profits Tax and is inevitable so long as the gross liability to Profits Tax remains dependent upon the amount distributed as dividends or otherwise, on all classes of shares. The contingent liability created by the non-distribution relief is of indefinite duration, terminating only on the liquidation of the company or at the moment in time when total dividends distributed in respect of all periods subsequent to January 1, 1946, come to equate total statutory profits (less losses) since that date.

PROFITS TAX AND EXCESS PROFITS TAX

26. These considerations, and particularly the fact that liability to Profits Tax is—in part at least—both contingent and indefinite, will make it extremely difficult to provide that such liability shall be alternative to any new form of Excess Profits Tax, as was done by Section 19, Finance (No. 2) Act, 1939, with the National Defence Contribution and the then Excess Profits Tax.

27. Certainly, to make the new tax alternative to the definite Profits Tax liability, preserving the distribution charge at 40 per cent. as an independent and contingent liability of indefinite duration, would involve grave complications both in legislation and in operation—while the total burden could become prohibitive. On the other hand, to provide that the alternatives should be the Excess Profits Tax and the gross Profits Tax would be to create a separate class of company entitled, for all time, to partial immunity from a contingent liability to which all others would be subject.

INITIAL AND OTHER ALLOWANCES—INCOME TAX ACT, 1945

28. These initial allowances were designed to encourage re-equipment and the modernisation of industrial assets, and their suspension from April 6, 1952, by Section 20, Finance Act, 1951, was intended to minimise the demand for capital goods.

29. The allowances were deliberately abnormal and must be eliminated in the calculation of standard profits, if such

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Where P. = Statutory Profit
and D. = Dividend Gross

		Contingent
Then gross Profits Tax	= 0.5 P.	
Non-distribution relief	= 0.4 (P. — D.)	0.4 (P. — D.)
Net Profits Tax	= 0.1 P. + 0.4 D.	0.4 (P. — D.)
Income tax	= 0.4275 P. — 0.19 D.	
Total Taxation	= 0.5275 P. + 0.21 D.	0.4 (P. — D.)
Where D. = P. Total Taxation becomes	0.7375 P.	Nil
Where D. = O. Total Taxation becomes	0.5275 P.	0.4 (P. — D.)

profits are not to be distorted unfavourably. The following illustration, based on an item of plant costing £1,000 and depreciable at a basic rate of 10 per cent., points the argument quite clearly:

	Allowances Income Tax Act, 1945		*Allowances Normal*
	20 p.c.	40 p.c.	
1st year	325	525	125
2nd year	84	59	109
3rd year	74	52	95

30. The adverse effect would be aggravated by the consequent abnormal reduction in capital values after the year of initial allowance and it is clear that, to avoid palpable inequity, re-calculation of all wear and tear computations would be essential for a new Excess Profits Tax.

THE STANDARD PERIOD

31. It has already been stated that the importance of the Excess Profits Duty as a fiscal instrument was due to two main factors; the first the rapid and continuous rise in the level of prices throughout the chargeable periods and the second the relatively modest amount of the taxes foregone as a result of the imposition of the Duty.

32. Both these factors also operated with the Excess Profits Tax, but the rise in the price level was less steep while the amount of other taxes foregone was proportionately much greater, and the combined effect of these variations was to minimise the net yield of Excess Profits Tax.

33. Looking back over the period since the termination of the Excess Profits Tax the rise in the price level has continued from that point, nor are there any present signs that stability has been reached, whatever may be the effect of the steps recently taken to check inflation.

34. Inevitably, the general trend of company profits in the postwar years has been upwards, but the inflation of ostensible profits by adherence to traditional accounting principles is indisputable.

35. None the less, these ostensible profits have been the basis on which the State's participation in company profits has been calculated and the present minimum percentage so exacted is 52.75. These profits, therefore, should be the base or standard by which should be measured any excess of profits during the rearmament period. The standard period, moreover, should extend up to the date from which any new tax is to operate. In the face of a constantly rising price level any gap between the end of the standard period and January 1, 1952, will indicate that a significant gross yield from the new levy is deemed of more importance than equitable considerations and the risk of seriously accelerating the depletion of industrial equipment and resources.

THE NEED FOR SAVINGS

36. In the gravest crisis the risk of exhaustion of vital assets is inescapable. By contrast, the present problem has two phases —a short term and a long term. The first derives from the fact that a total production, which has proved to be inadequate to the current combined demand for consumption and capital goods, must meet for a period —and preferentially—a formidable rearmament programme. The aggravated deficiency may be mitigated by increased production and by decreased consumption, particularly of capital goods.

37. In the second phase, which will begin on completion of the rearmament programme, productive capacity will be freed for the supply of capital goods, but can only be made effective to the extent to which industry has been enabled to accumulate financial resources available and adequate for full-scale rehabilitation, modernisation and expansion of industrial capacity.

38. The emphasis must rest heavily on expansion of production, since there has long been an intransigent unbalance in the national economy, of which recent crises are the more violent symptoms. Replacement, therefore, cannot suffice and the ambitious programme which alone can offer the hope of redressing the balance will require an accumulation of industrial resources at a much higher rate than has proved possible in recent experience.

39. Table 26 in the Economic Survey for 1951 and paragraphs 126 and 127 are entirely in point:

	(*£ million*)			1951
	1948	1949	1950	Forecast
Depreciation Allowances	845	1,027	1,124	1,120
Increase in tax reserves	154	—15	118	530
Undistributed profits	524	487	569	780
Less provision for stock appreciation	—185	—17	—270	—700
Total	1,338	1,482	1,541	1,730

40. The accumulations of the years 1948 to 1950 were entirely inadequate, as is evidenced by the present grave situation. The fiscal burden has since been increased by the Finance Act, 1951, and the price level has risen sharply. To add to these adverse factors new taxation of significant amount must deny any possibility of accumulating the savings and the resources essential to the programme of capital development that should follow immediately upon the completion of rearmament.

CONCLUSION

41. This review of past experience and of contemporary conditions leads to the conclusion that a new form of Excess Profits Tax, however carefully devised, must be inadequate from the fiscal standpoint and harmful economically. If, for other reasons, it is considered expedient to impose such a tax, the wise course would seemingly be to limit its scope and consequently its harmful effects. A selective tax must create anomalies since the effects of "the abnormal process of rearmament" will clearly extend far beyond the concerns directly engaged therein as contractors or sub-contractors, but inequities confined to a limited field will be preferable to the widespread and disturbing effects of a tax leviable upon limited companies generally.

42. The terms of armament contracts can be devised to ensure that abnormal profits shall not result; that is the proper function of such contracts. The indirect consequences of the programme are admittedly outside the control of the contracting Departments, but will be indistinguishable from the effects of the rising price levels and the consequent inflation of ostensible profits measured by accounting methods which fail to make adequate provision for the preservation intact of assets employed, by reference to their intrinsic worth in production as distinct from their monetary values.

43. The main conclusions of this review as to the form of any new tax on excess profits may be summarised in the following recommendations:

		Para. No.
(*a*)	Any new tax on excess profits should be selective, applying only to companies undertaking armament contracts	16-27
(*b*)	Armament contracts should be defined to include sub-contracts, but a substantial annual minimum figure should be specified	14
(*c*)	The period for the ascertainment of standard profits should extend up to December 31, 1951	35
(*d*)	Fair alternative standards should be available	5
(*e*)	The statutory percentage on capital employed should recognise special risks	5
(*f*)	Amortisation allowances should be separately calculated, both for the standard periods and the chargeable accounting periods	28-30
(*g*)	The rate of the tax should be within the range 40 per cent. to 60 per cent.	12
(*h*)	Liability should be cumulative over the whole period of operation	—
(*i*)	To avoid duplication of taxation liabilities upon companies, the Profits Tax should be an alternative minimum liability, but this will not be practicable so long as Profits Tax is allowed to retain the undesirable feature of being largely contingent and indefinite	26-27

Successions

THE IMPORTANCE OF THE WORD "succession" has diminished owing to the rule that a change in proprietorship involves assessing the business as if it had been discontinued and a new business started. There is one well-known exception to this rule—the "continuing basis" applies for partnerships so long as there is at least one partner common to the old and the new firms. Even then, election can be made for treatment on the "discontinued and new basis."

When is there a Succession?

It is still necessary, however, to determine whether there has been a succession in certain circumstances. For example, for balancing charges and balancing allowances under Part II of the Income Tax Act, 1945 (Machinery and Plant), where there is a sale but no succession, the business is regarded as permanently discontinued. If, however, there is a succession so that the business is still carried on, the business is not "permanently discontinued" for the purpose of balancing allowances and charges, despite the fact that it is assessable as a discontinued business under Rule 11 (Cases I and II), as amended by Section 32, Finance Act, 1926. It may be remembered that a balancing allowance or charge only arises if the sale, etc., occurs before the business is "permanently discontinued."

Further, there can be no succession to a part of a business and, therefore, if part of a business is sold the cessation provisions will not apply. It may be, however, that the person who acquires the part can be assessed as having started a new business: this will be a question of fact.

Where a business is taken over as a whole, then, of course, there is succession beyond doubt. Similarly, if a person is carrying on two or more separate businesses and gets rid of one, there will be a succession in respect of that business.

Again, if practically the whole of the business is taken over, the fact that some assets are omitted will not operate to prevent treatment as a succession.

The importance of the succession is usually greater from the successor's point of view than from that of his predecessor. If there is a succession the person who has acquired the business will be assessed as for a new business. If, however, there is not a succession but merely an extension of his existing business, the new business rules will not apply and he will continue to be assessed on the basis of the previous year's profits. Factors to be applied in determining whether there is a succession are:

(*a*) Whether a similar trade is already being carried on before and after the transfer.

(*b*) Whether the goodwill, staff, stock-in-trade, debts, etc., are taken over.

(*c*) Whether there is continuity or a gap in the carrying on of the trade.

It would seem that amalgamation of two businesses may be a succession which involves the application of the new business rules, as in *George Humphries and Co.* v. *Cook* (1934, 19 T.C. 121), where H carried on the business of processing films, the technical work being done by T at another address. T's business was confined to orders from H. H took T into partnership; the business was carried on as before by H and T at separate addresses and later at additional premises. It was held that there was evidence upon which the Special Commissioners could find that on the formation of the partnership an amalgamation of two separate and distinct businesses took place, creating a new business. The claim that H was carrying on the same business but as a partner in a partnership was rejected. Had the two businesses been identical, the decision would presumably have been otherwise.

The acquisition of assets is not in itself necessarily a succession. If a business has been making heavy losses and has to sell its assets to avoid shutting down, it is probable that there is no succession, e.g. in *Watson Brothers* v. *C.I.R.* (1902, 4 T.C. 441), a tramp steamer was sold without books of account, debts or lists of customers and it was held that there was no succession to the business.

Two important cases were *Laycock* v. *Freeman, Hardy & Willis* (1938, 22 T.C. 288) and *Briton Ferry Steel Co.* v. *Barry* (1939, 23 T.C. 414). In the former case the company carried on a large retail business but bought its stock wholesale from other businesses. Two of the suppliers were wholly-owned subsidiary companies which sold the whole of their products to the parent company. The subsidiary companies went into liquidation and transferred the assets and goodwill of their businesses to the parent company, which took over the employees and thenceforward manufactured boots and shoes and sold them as retailers. It was held that although the businesses of the subsidiary companies ceased, the parent company did not succeed to those businesses. There was no longer a manufacture and sale by wholesale of boots and shoes; the company continued to sell retail. This was an enlargement of the existing business.

In the second case the company was chiefly concerned with production of steel bars. Its wholly-owned subsidiary companies bought the steel bars for conversion into black-plate and tin-plate, selling through an agency company, another wholly-owned subsidiary. All the subsidiary companies except the agency company were put into liquidation and their assets and businesses acquired by the parent company. The steel mills of the subsidiaries became branch mills of the parent company, which continued to sell through the agency company. It was held that the company had succeeded to the trade of its subsidiaries. The decision was not affected by the fact that the company produced and did not, like the subsidiaries, have to buy the raw product used in manufacturing the products, or that it absorbed and did not, like the subsidiaries, sell the scrap coming into existence in the process of manufacture. The real distinction seems to be that if the new owner acquires a trade and actually carries it on there is a succession, but if the trade acquired is not carried on there is none. In both cases, the venture would be assessed on the discontinued basis.

On a succession, there is no carry forward of unexhausted capital allowances or losses, except in a partnership change where assessments continue to be on the previous year basis, when the whole of the unexhausted capital allowances can be carried forward and each partner's share of loss can be carried forward against his share of profits.

The Date of Succession

The date on which a succession occurs is a question of fact. Normally it is the date of the vending agreement, but this is not conclusive. The question is, when was there a succession *de facto?* It may be shown that the agreement is simply a formality which has followed the actual date of transfer. On the other hand, the agreement may provide for a transfer of the business at a future date. In *Todd* v. *Jones Brothers* (1930, 15 T.C. 396) there had been negotiations for the sale of a business and it had been indicated in a letter of March 21, 1928, that the terms as contained in the correspondence, and as arranged at interviews between the parties, were generally accepted "subject to such terms being fully set out in a formal contract or agreement to be submitted to us and formally approved of." On March 29, 1928, two of the directors of the vendor company resigned and entered into the service of the purchasers. On March 30, the vendor gave notice to his foreign agents terminating their engagement. The formal contract was dated April 16. The vendor claimed that succession took place before April 6, 1928. It was held that the correspondence did not constitute a contract and that there was no evidence of *de facto* succession prior to April 6. Rowlatt, J., likened it to the hauling down of one flag and the hoisting of another. In *Fred W. Millington* v. *C.I.R.* (1927, 12 T.C. 1081), the company entered into an agreement on October 25, 1920, to sell its undertaking to a syndicate as from December 31, 1919, but having subsequently joined with the syndicate to sell to a new company as from December 21, 1920, it was held to have parted with the business from October 25, 1920. This exemplifies the income tax rule that an agreement cannot be back-dated for tax purposes. In *Bonner* v. *Frood* (1934, 18 T.C. 488) a credit draper agreed to sell to a traveller the "rounds" that he was working for a price calculated by reference to the outstanding debts. The traveller bought goods from the draper, retaining a certain allowance for himself out of the sales, and handed over the balance to the draper. If the traveller failed to observe the agreement or neglected the business, the draper could resell the book debts and recover the deficiency. It was held that the transfer of the rounds had been withheld until the full price had been paid.

Taxation Notes

Tax Free Annuities Under Wills

THE DECISIONS IN *Re Pettitt* (1922, 2 Ch. 765) and *C.I.R.* v. *Duncanson* (1949, 2 A.E.R. 846) have the following result:

(1) The annuitant is regarded as entitled to the stated amount of a "free of tax" annuity without suffering any income tax (including sur-tax) on it.

(2) Accordingly, the proportion of tax on his personal and similar allowances appropriate to the annuity must be accounted for to the trustees.

(3) The amount accounted for is deductible from the annuitant's income for sur-tax purposes. The practice here seems to be to deduct the gross equivalent of the amount accounted for to the trustees.

(4) The "gross" amount of the annuity is calculated as follows:

(i) Gross at the standard rate.

(ii) Add the sur-tax paid in the year (i.e. the previous year's sur-tax) in proportion that the annuity (gross) bears to total income (of previous year), grossed up at the standard rate for the year of payment.

(iii) Deduct the grossed up amount accounted for to the trustees.

Illustration: Under the will of X, who died on May 19, 1949, Y became entitled to a free of tax annuity of £1,155. Y is single. The annuity commenced on May 19, 1950.

1950-51:		
Grossed annuity	£2,100	
Other income	700	
	£2,800	
Personal allowance £110 at 9s.	£49	10 0
Reduced rates £50 at 6s. 6d.	16	5 0
£200 at 4s.	40	0 0
	£105	15 0
Account to trustees for $\frac{2,100}{2,800}$ × £105 15s. =	£79	6 3

Sur-tax on £2,800 = £87 10s., due January 1, 1952.

1951-52		
Grossed annuity ...	£2,200	0 0
Grossed Sur-tax payable January 1, 1952 ...	166	13 4
	2,366	13 4
Less Grossed amount accounted for in respect of 1950-51 (deducted when paying annuity in 1951-52)	151	1 6
Gross annuity	2,215	11 10
Other income (if unchanged)	700	0 0
Total Income ...	£2,915	11 10

It is generally considered that tax on earned income relief should not be accounted for to the trustees. In such a case the proportion of tax on other allowances to be accounted for to the trustees is in the ratio that the grossed annuity bears to the total income reduced by the earned income relief.

Illustration: 1951-52.

Free of tax annuity £5 5s. a week, grossed ...		£520
Earned income ... £800		
Less E.I.R. ... 160		
		640
Dividends		400
		£1,560

Personal allowance:			
£110 at 9s. 6d. ...	52	5	0
Reduced rate:			
£50 at 6s. 6d.	16	5	0
£200 at 4s.	40	0	0
	£108	10	0

Account to trustees for $\frac{520}{1,560}$ × £108 10s. = £36 3 4

(and not $\frac{520}{1,720}$ of (£108 10s. + £76*))

* Tax at 9s. 6d. on £160.

Finally, the amount accounted for is a proportion of tax on allowances, not of the amount (if any) repaid by the Revenue. In the second illustration, all allowances would be given in the charge on earned income. The annuitant has still to account to the trustees for £36 3s. 4d.

Excess Rents

Where the intermediate lessor pays rent on a short lease, to a superior lessor who pays a ground rent, the position is as follows:

Illustration:

The house is assessed at £64 net annual value. The occupier pays a rent of £130 to the intermediate lessor, who in turn pays £90 to the superior lessor. The ground rent is £20.

	£		
The occupier pays £64 at 9/6 =	30	8	0
which he deducts from rent			
Intermediate lessor pays—			
Rent receivable	130		
Repairs allce.	25		
	£105		
Rent payable	90		
Excess Rent	£15 at 9/6 =	7	2 6

He deducts the tax on the N.A.V. when paying his rent.

Superior lessor pays—			
Rent receivable	90		
N.A.V.	64		
Excess rent	£26 at 9/6 =	12	7 0
And suffers tax on the N.A.V.		30	8 0
		£42	15 0

Between them, therefore, the intermediate and superior lessors pay tax on the true net annual value, i.e. £105 at 9/6 = £49 17s. 6d.

The ground rent is regarded as an annual payment from which the superior lessor will deduct tax at 9s. 6d. in the £ on payment.

Penalties

It has been suggested that since assessment follows proceedings for penalties (Section 107 of the Income Tax Act, 1918), it is difficult to see how the proceedings can be taken. The argument seems to be that to bring a defaulter before Commissioners, there must be an appeal to be heard; therefore an assessment must precede proceedings. In Sections 30 and 132 of the Act there is no reference to assessment, so how are proceedings taken?

The answer lies in Section 221, which provides that proceedings before General Commissioners are to be by way of information in writing made to them and by summons to the accused person to appear. The Commissioners must examine the facts, hear and determine the case in a summary manner, and give judgment for the penalty or a mitigated amount. They must then assess the penalty by supplementary assessment; the penalty is then levied as if it were tax. The adjudication is final, and there is no appeal to any Court, but the Commissioners of Inland Revenue have power to mitigate or remit a penalty under Section 222.

Income Tax Bill

The Joint Committee on Consolidated Bills have made some amendments to the Bill as first printed by the Lords. These are not of general interest, except perhaps that to Clause 124, which states that "all farming *and market gardening* in the United Kingdom shall be treated as the carrying on of a trade," etc., and the amended Clause 444 on co-operative and similar societies, which is a decided improvement on the original clause.

Section 10, Finance Act, 1941, says that "farming and market gardening shall be treated as trades . . ." but Section 31, Finance Act, 1948 (to which the rubric of Clause 124 is referred) speaks only of "farming." Is there a slight change in the law involved in the new wording with the singular use of the word "trade"? It is necessary to remember that "a consolidating Act merely consolidates, and, generally speaking, ought to be construed so as not to change the existing law. But it may change the law. It has to be construed according to its own language; and if its language can only be construed in one way, then it must be construed as changing the law" (21 T.C. 504).

Dividends—Gross Amount for Income Tax Purposes, 1951-52

We regret that an obvious drafting error crept into the example, in the note under this heading, on page 31 of our January issue. The gross amount of dividend (*c*) should be £48 + (£17 12s. × $\frac{40}{21}$) = £33 10s. 5d.

BOOKS RECEIVED

MODERN OFFICE MANAGEMENT. By H. W. Simpson. Sixth edition. (*Sir Isaac Pitman and Sons, Ltd. Price 10s. net.*)

THE LAW OF WILLS. By R. Cross, M.A., B.C.L. Second edition. This is the Law Series. (*Stevens & Sons, Ltd. Price 6s. net.*)

INCOME TAX LAW AND PRACTICE. By Cecil A. Newport, F.A.C.C.A., and Oliver J. Shaw, Barrister-at-Law. Twenty-third edition. (*Sweet & Maxwell Ltd.* Price 25s. net.)

MEETINGS OF PRIVATE COMPANIES. By Peter E. Whitworth, B.A., Barrister-at-Law. Second edition. (*Jordan & Sons, Ltd. Price 10s. 6d. net.*)

THE LAW RELATING TO BANKRUPTCY IN A NUTSHELL, including Deeds of Arrangement and Bills of Sale. By Marston Garcia, B.A., Barrister-at-Law. Fourth edition by Immanuel Goldsmith, LL.B., Barrister-at-Law. (*Sweet & Maxwell, Ltd. Price 6s. 6d. net.*)

INCOME TAX, SUR-TAX AND PROFITS TAX. By E. Miles Taylor, F.C.A., F.S.A.A. Thirteenth edition. (*Textbooks, Ltd. Price 30s. net.*)

Second Supplement to THE PRINCIPLES OF INCOME TAX AND PROFITS TAX. Fourteenth edition. By E. Miles Taylor, F.C.A., F.S.A.A. (*Textbooks, Ltd. Price 1s. net.*)

(*See also page 80*)

The telephone number of the Somerset House switchboard is now TEMple Bar 2407. Among the departments sharing this new number are the Inland Revenue (headquarters), the Companies Registration Office and the Registry of Business Names, and the Principal Probate Registry.

Recent Tax Cases

By W. B. COWCHER, O.B.E., B.LITT., Barrister-at-Law

INCOME TAX

Application for order of prohibition—Appeal against assessment—Decision announced by Clerk to Commissioners in favour of applicant—Case stated in which decision announced in favour of Inspector—Discussion of position between Commissioners and Inspector in absence of applicant—Affidavits by four Commissioners showing three of them in favour of Inspector and only one in favour of applicant and that Clerk's announcement was in error—Assessment not formally discharged—Whether further hearing possible to alter decision—Income Tax Act, 1918, Section 149.

R. *v.* Morleston and Litchurch Commissioners: ex parte G. R. Turner, Ltd. (K.B., July 27, 1951, T.R. 289), as will be gathered from the heading to this note, was one of the few tax cases which contain a distinct element of comedy and most readers of the report will probably be inclined to agree with the Lord Chief Justice, who, giving the decision of the Divisional Court, remarked:

> It is an unfortunate state of affairs, and leads the Court to think that some change is desirable in this division.

Nevertheless, it was found that in this comedy of errors everybody had acted in good faith and, although the application for prohibition failed, a hesitant Court finally decided that all the parties should pay their own costs, the Clerk to Commissioners obviously having a narrow escape. Apart from this feature, the judgment contains *dicta* of considerable importance. It appears that the announcement of the Commissioners' decision by the Clerk, "a gentleman of mature age said to be about 80," was a misunderstanding of what the Chairman had told him; and, when the case came to be stated, the fact that three out of the four Commissioners had decided otherwise, but had not heard what the Clerk said, created a dilemma in which the Commissioners sent for the Inspector and discussed the position with him without, at the same time, sending for the company's representative. This course the Court held to be "most unfortunate"; and it is just as well that it should be impressed upon all concerned in appeals that nothing must be done, even with the best of intentions, which would be regarded as irregular in the case of a Court. Incidentally, the Lord Chief Justice said, as regards Commissioners of Income Tax:

> The General Commissioners of Income Tax occupy a quasi-judicial position (or, in fact, I think, a judicial position), because they have to decide on questions of fact.

In the present writer's opinion, the most important feature of the case was the following declaration, which is given in full:

> If one takes what I may call the technical or strictly legal point of view, it appears that the assessments have never yet been formally discharged, and, therefore, if they have not been formally discharged, it is quite open to the General Commissioners at any time to alter their decisions until the matter has been concluded, in exactly the same way as when a judge sometimes makes an error in the calculation of damages, or gives a decision having overlooked a point, then, before the judgment is formally drawn up and entered, he can always alter his decision. The fact that he has given an oral decision in Court does not conclude the matter until the judgment is formally drawn up and entered, and up to that time a judge can always alter it.

The above statement by the Lord Chief Justice clears up a point about which there has hitherto been some doubt. Commissioners often give "decisions in principle" subject to agreement of figures; but although cases have actually been stated and judicially considered before such agreement has been reached, it has generally been held that the demand for a case can only be made after the figures have been settled. The question has been whether having given their "decision in principle" Commissioners are thereby precluded from making any modifications whatever of such a decision; and the answer now given is that they are not so precluded.

Film actor-producer—Three films—Contracts with three companies—Remuneration for services and rights varying in each contract to shares in proceeds or net profits of film distribution—Death of actor-producer before all amounts payable in respect of rights capable of ascertainment—Whether executors assessable in respect of payments subsequent to death arising from contracts—Income Tax Act, 1918, Schedule D, Cases III and VI, General Rules No. 21.

Stainer's Executors (Gospel and Another) *v.* Purchase (House of Lords, November 29, 1951, T.R. 353), as *Purchase* v. *Stainer's Executors* was noted in our issues of February 1950, at page 65, and August 1950, at page 286, the earlier note being a very full one. The position of the case when it reached their lordships was that upon all the issues the Special Commissioners had decided in favour of the executors. Croom-Johnson, J., had upheld them, and in the Court of Appeal (Jenkins, L.J., dissenting) it had been held that the subsequent payments in respect of "future rights" were assessable under Case III of Schedule D. Their lordships now unanimously reversed the findings of the Court of Appeal in so far as they had been in favour of the Crown, thus restoring the decisions of the Special Commissioners and Croom-Johnson, J., and approving that of Jenkins, L.J.

Lord Simonds, L.C., and Lord Asquith alone made speeches, the others concurring with the former. Both quoted in full with complete approval the following passage from the judgment of Rowlatt, J., in *Bennett* v. *Ogston* (1930, 9 A.T.C. 182, 15 T.C. 374):

> When a trader or a follower of a profession or vocation dies or goes out of business . . . and there remain to be collected sums owing for goods supplied during the existence of the business or for services rendered by the professional man during the course of his life or his business, there is no question of assessing those receipts to income tax: they are the receipts of the business while it lasted, they are arrears of that business, they represent money which was earned during the life of the business and are taken to be covered by the assessment made during the life of the business, whether that assessment was made on the basis of bookings or on the basis of receipts.

Their lordships' decision is substantially in accordance with the opinions expressed by the present writer in his previous notes to the effect that the right to receive amounts arising out of the carrying on of a profession "has to be valued by the assessing Commissioners as at the end of the basis year in which the services are rendered and the value so estimated is, so far as Case II is concerned, income of that year and of no other year." In the present case, at the end of the basis year the amounts which would eventually become payable were factually impossible of ascertainment; but it was pointed out by the writer that in *Wales* v. *Tilley* (25 T.C. at page 145), Mackinnon, L.J., had doubted whether the impossibility of dividing two sums of £20,000 between what was assessable and what was not could relieve Commissioners from the duty of making a division. The difference in the circumstances of the two cases was, however, that whilst in *Tilley's* case the total sum was known, in the present case there was no possible means of knowing and, to quote the Lord Chancellor:

> If . . . it was not possible to bring the sums into account in the years in which they were earned . . . the result is not to change the character of the payment but to exhibit that some professional earnings may escape the income tax net. The withdrawal of the

cross-appeal shows that lump-sum payments made in the circumstances of the present case do so escape.

Whilst the statement of principle by Rowlatt, J., in *Bennett* v. *Ogston* already quoted received unqualified approval, the Lord Chancellor added:

> I have some doubt—it is not necessary to decide it—whether the learned judge correctly applied the principle to the case before him.

At the close of his first note upon the case, the present writer pointed out that Rowlatt, J., had apparently regarded "interest" and "discount" as undistinguishable. If it be granted that a moneylender's "discount" on a promissory note is an earning of the year in which the note is discounted, as would seem to be the fact, then it would appear that by the test of his own principle, *Bennett* v. *Ogston* was wrongly decided by him.

Income Tax—Income from possessions or securities out of the United Kingdom—Person in United Kingdom for temporary purpose only—Exemption if actual residence less than six months in year of assessment—Fractions of days—How to be regarded in computing period—Income Tax Act, 1918, Schedule D, Miscellaneous Rules, Rule 2—Income Tax Act, 1842, Section 39—Interpretation Act 1889, Section 3.

Wilkie *v.* **C.I.R.** (Ch. December 12, 1951. *The Times*, December 13), would never have come before the Court had British Overseas Airways Corporation not cancelled a flight upon November 30, 1947. The appellant normally resided in India and was in the United Kingdom "for a temporary purpose only." He had arrived at about 2 p.m. on June 2, 1947. His arrangements for return having been upset, he had to wait until December 2, when he left at about 10 a.m. The fiscal year 1947-8 contained 366 days, and, computed by the number of hours spent in the United Kingdom, appellant's stay was less than six months (being 182 days, 20 hours) and he was within the exemption given by Rule 2, Miscellaneous Rules, Schedule D. If, however, both June 2 and December 2 were to be counted as full days, he was in the United Kingdom for 184 days and was not exempted. The claim was in respect of tax deducted from a small dividend; but counsel for the appellant said that about £6,000 was involved in the case. The Special Commissioners had rejected the appellant's claim; but Donovan, J., reversed their decision.

The qualification for exemption under Rule 2 is that a person "has not actually resided in the United Kingdom at one or several times for a period equal in the whole to six months in any year of assessment" and the Commissioners had held that each of the two fractions of days had to be counted as a full day with the result, as the judge pointed out, that appellant would be resident in the United Kingdom for more than six months and also upon the same footing non-resident for more than six months. For the Crown, it was contended that the Court had to determine the period of residence and nothing else. It was also contended by the Crown by way of a new argument that "six months" meant six "lunar months" of 28 days. In support, it was pointed out that Rule 2 was a reproduction of Sections 39 of the Income Tax Act, 1842, which was enacted in a year when, in the absence of special definition to the contrary, the word "month" meant "lunar month," although by virtue of Section 3 of the Interpretation Act, 1889, the word meant "calendar month" in any Act passed since 1850, "unless the contrary appears." It was also urged that if the computation was upon the basis of number of hours it would create an "administrative nightmare," and that such a construction should be avoided unless inevitable. For the appellant it was, *inter alia*, argued that in English law there was no general rule that fractions of a day should be counted as a whole day. Donovan, J., pointed out that it was the first time the question had come before the Court. Rejecting the argument as to administrative difficulties—he himself was for many years in the Revenue service—he decided in favour of the hours basis.

The question of the temporary visitor has some interesting features and, seeing that it was dealt with in earlier Acts, it is curious that reference was not made to them. The Act of 1842 was largely a reprint of the Act of 1806 and Section 39 of the former was based upon Sections 51 and 52 of the latter. By Section 51 exemption was given to those:

> who shall not actually have resided in Great Britain for the period of six *successive calendar* months,

but in Section 39 the two words in italics were omitted. The omission of the first word represented an improvement in the exemption although the retention of Section 52 of the Act of 1806 as the last part of Section 39 preserved a glaring defect which was finally remedied by Rule 2, although the 1918 Act was not supposed to change the existing law. The mystery why the word "calendar" was omitted from Section 39 remains. The decision of Donovan, J., would seem to be satisfactory as settling the matter "in a rational way" in accordance with the principle laid down by Lord Esher, M.R., in *In re North*, (1895, 11.T.L.R. 417).

It is none the less difficult to see how, from the strictly legal point of view, the period of non-residence during a year came into the problem.

ESTATE DUTY

Estate duty—Bequest of 25 annuities—Direction to appropriate out of estate annuity fund—Estate insufficient for purpose although more than sufficient to provide actuarial value—Testatrix's children residuary legatees—Purchase by executors from children of similar annuities—Consideration their actuarial value—Agreements with annuitants that purchased annuities to be sole security for payment of will annuities—Death of one annuitant—(1) Whether cesser of interest whereby benefit accrued or arose on death—(2) Whether interest ceasing on death disposed of or determined—Finance Act, 1894, Sections 2 (1) (b), 7 (7); Finance Act, 1940, Section 43.

In re Beit (C.A., November 9, 1951, T.R. 337) was noted in our September issue at pages 350-51. In the lower Court, Vaisey, J., had decided that there was no liability to estate duty created by the death of a Mrs. Carter, one of the annuitants, although upon the Crown's second contention based upon Section 43 of Finance Act, 1940, he was only prepared to hold that the executors' contention was "preferable or at least equally tenable." A unanimous Court of Appeal upheld his decision.

As pointed out in the previous note, seeing that on the death of Mrs. Carter the benefit to the estate arising from the cessation of her annuity was balanced by the simultaneous cessation of the corresponding covenanted annuity paid by the children, there was no benefit accruing or arising chargeable under Section 2 (1) (*b*) of Finance Act, 1894, the children being in the same position as that of an assurance company. The Crown's contention to the contrary was abandoned in the Court of Appeal and the sole point at issue there was an essentially simple one, whether there had been a determination or disposition of the will annuity and the substitution therefor of the covenanted annuity purchased by the executors from the children. In their letter to the annuitant setting out the proposed arrangement, the executors' solicitors had asked whether:

> you would be prepared to agree to an arrangement under which Lilian Lady Beit's executors should purchase from her children an annuity equal in amount to that which the will gives you, and should hold it as the only security for the annuity given to you by the will, the remainder of the estate then being distributed free from your claim.

and it was held that under the arrangement the will annuity remained, the only effect of the scheme being that in lieu of the residuary estate as a whole the annuitant had

accepted as sole security the covenanted annuity. In the words of Morris, L.J.:

> In saying to the executors: " You may take an annuity so that you may pay me my annuity " she was not merging the two annuities. She was not ending her right to her annuity under the will, but in expressly referring to it she was facilitating certain arrangements by which its payment to her by the executors would be ensured.

Apart from estate duty avoidance, the scheme would seem to have been worth while as enabling a distribution of the residue of Lady Beit's estate to be expedited. Still, the decision opened up a vista which could not be contemplated by the Revenue with equanimity; and, so, it is not surprising that permission to appeal to the House of Lords was applied for and granted on terms.

Tax Cases—Advance Notes

By H. MAJOR ALLEN, Barrister-at-Law

CHANCERY DIVISION (Donovan, J.)

Blunson *v.* West Midlands Gas Board. December 14, 1951.

Facts.—The Board claimed an annual allowance under Section 2 (1), Income Tax Act, 1945, in respect of certain buildings, etc., used for the purposes of its trade of manufacturing and supplying gas. The Board was already in receipt of an allowance under Section 15, Finance Act, 1937 (" mills, factories " allowance).

The Crown contended that the Section 15 allowance was granted in respect of the gasworks as a whole and that in consequence no " industrial buildings " allowance was due in respect of any part of the gasworks as a consequence of Section 7 (2) and (3) of the 1945 Act.

The Board contended that the premises in respect of which the " mills, factories " allowance was granted were some three or four specified buildings only, and that as regards the remainder an allowance was due under the 1945 Act.

The Special Commissioners held that an allowance was due under the 1945 Act on the whole of the premises except certain specified buildings which could properly be termed mills or factories.

Decision.—The case was ordered to be remitted to the Special Commissioners (*a*) to decide whether the whole of the buildings constituting the gasworks were " mills, factories or similar premises," and (*b*) if not, to decide afresh which buildings were within that description.

Thomas *v.* Marshall. December 17, 1951.

Facts.—T. transferred cash and Defence Bonds to his infant children. The cash was deposited in the Post Office Savings Bank. The interest arising from these sources was applied for the benefit of the children, and T. was assessed thereon by virtue of Section 21, Finance Act, 1936. " Settlement " is defined in that section as including a transfer of assets. T. claimed, however, that the word " settlement " has the same meaning throughout the Income Tax Acts, that it cannot include an absolute and unconditional transfer of assets, and that this view was supported by the speeches in the House of Lords in *Vestey's* case (1949, 31 T.C. 1).

He further contended that each separate deposit in the P.O.S.B. constituted a separate settlement, and that he was entitled to the benefit of subsection (4) of Section 21.

The General Commissioners (Tower Division) held that the gifts made by T. to his children were " transfers of assets " which constituted " settlements " under Section 21, Finance Act, 1936; that substantial sums deposited within a short period made up a single settlement, but that with this proviso the deposits formed separate settlements to be considered separately in applying subsection (4).

Both sides appealed.

Decision.—Donovan, J., dismissed the taxpayer's appeal on the first point, and allowed the Crown's appeal on the second point.

Chibbett *v.* Brockfield and Son, Ltd. December 18, 1951.

Facts.—A company which traded as land developers and builders purchased land in 1934, upon which it erected houses for sale. In connection with the sale of those houses it deposited sums of money with a building society as collateral security for advances by the society to purchasers. In accordance with the decision in *Cronk's* case (1935, 20 T.C. 612) the deposits were excluded from the computation of profits for the relevant year. A part of the land remained unbuilt upon, and unsold, at the beginning of the war. During the war the only business of the company was contracting for the Liverpool Corporation.

On November 28, 1946, a winding-up resolution was passed, and on May 8, 1947, the building society deposits were repaid to the liquidator.

Two questions fell to be determined by the Special Commissioners:

(i) the value to be placed upon the unsold land, in view of Section 26, Finance Act, 1938; and

(ii) whether anything fell to be included in the company's profits in respect of the building society deposits.

As to (i), they held that the value must be the open market value as at November 28, 1946, and not the " existing use " value ultimately receivable as compensation for the compulsory acquisition of the land by Liverpool Corporation, following an order made in January 1948.

As to (ii), they held that, notwithstanding that the deposits were, on the evidence, worth their full face value in November 1946, there was no justification for departing from the method of treatment indicated in *Cronk's* case, i.e., bringing the deposits into account as and when released. Since they found as a fact that the liquidator had not continued the company's trade, it followed that no assessment could be made on the release of the deposits.

Decision.—*Held* that the Special Commissioners' decision was correct.

CHANCERY DIVISION (Upjohn, J.)

Faulconbridge *v.* National Employers' Mutual General Insurance Association, Ltd. January 11, 1952.

Facts.—The association, a company limited by guarantee, was incorporated in 1914 to provide mutual insurance of its members against employers' liability and workmen's compensation claims. In 1921 it took power to carry on other forms of insurance and began to transact fire, accident, motoring and general (but not life) insurance. The articles provided for the division of profits among the members in proportion to their surplus premiums, but (on actuarial advice) no distribution had been made since 1921.

The Crown claimed that the association carried on a trade or business assessable under Case I of Schedule D. The Special Commissioners held that the case was indistinguishable from *Styles* v. *New York Life Insurance Co.* (1889, 2 T.C. 460).

Decision.—Upjohn, J., upheld the decision of the Special Commissioners and dismissed the Crown's appeal.

The Student's Tax Columns

SUR-TAX

SUR-TAX IS NOT A SEPARATE TAX IN ITSELF; IT IS A DEFERRED instalment of income tax payable by individuals on a graduated scale on the excess of their statutory total incomes over £2,000. The sur-tax is due on January 1 following the end of the year of assessment, e.g. the sur-tax for 1950-51 was due on January 1, 1952. The rates are usually fixed in the Finance Act passed in the year of assessment following that for which they are to operate, but occasionally they are fixed in the Finance Act of the year for which they are to operate. The rates for 1950-51 were:

In respect of:	*Rates in the £*	*EXAMPLE* *Income*	*Sur-tax*
		£	£ s. d.
First £2,000 of income	Nil	2,000	Nil
Next £500 "	up to £2,500 at 2/-	2,500	50 0 0
" £500 "	" £3,000 " 2/6	3,000	112 10 0
" £1,000 "	" £4,000 " 3/6	4,000	287 10 0
" £1,000 "	" £5,000 " 4/6	5,000	512 10 0
" £1,000 "	" £6,000 " 5/6	6,000	787 10 0
" £2,000 "	" £8,000 " 6/6	8,000	1,437 10 0
" £2,000 "	" £10,000 " 7/6	10,000	2,187 10 0
" £2,000 "	" £12,000 " 8/6	12,000	3,037 10 0
" £3,000 "	" £15,000 " 9/6	15,000	4,462 10 0
" £5,000 "	" £20,000 " 10/-	20,000	6,962 10 0
The remainder of the income at 10/6 in the £	Exceeding £20,000		6,962 10 0 plus 10s. 6d. in each £ of the excess over £20,000

For 1951-52 they are to be the same up to £15,000. All income in excess of that amount will be charged at 10s. in the £. This follows on the increase in the standard rate from 9s. to 9s. 6d. in the £, so that the maximum total tax on the highest slices of income is 19s. 6d. in the £.

DECEASED TAXPAYERS

In the case of a deceased taxpayer, the personal representatives can pay sur-tax on his income for the year of death at the lower of the rates of that year or of the preceding year of assessment. This is to enable the representatives to carry on without waiting for the next Finance Act.

TOTAL INCOME

The statutory total income for the purposes of sur-tax is generally simply the aggregate of all income assessed under the various schedules and all income taxed at source, but deducting annual payments and charges on income. Care must be taken to include the final figures, i.e. after deducting maintenance relief under Schedule A, losses for which relief is given under Section 34, etc.

For years up to and including 1951-52, building society interest received is included at the amount received; for 1952-53 onwards it will have to be " grossed up " as if it were a " free of tax " dividend.

Building society interest paid, bank interest paid, etc., are deductible as charges.

There are, however, some deductions that operate for sur-tax purposes only, viz.:

(1) A taxpayer who has to bear interest on Estate Duty is allowed to " gross up " the amount and deduct it as a charge, e.g. interest paid in 1951-52 £52 10s. means a deduction of £100.

(2) Certain expenses of Crown servants abroad necessarily incidental to the discharge of the duties of the office are allowable; the Treasury determines the amount.

(3) The gross amount of the trustees' expenses authorised by the trust instrument or will is deductible from the gross income of the trust.

ADJUSTMENTS OF TOTAL INCOME

Adjustments may be claimed where:

(*a*) *More than one year's income is receivable in the year of assessment.* If it can be shown that the income from any asset for any year of assessment represents more than the income attributable to a full year if the income were deemed to have accrued from day to day, and in consequence the sur-tax payable for that year is more than 5 per cent. in excess of the sur-tax that would have been payable had the accrued income been included, the Special Commissioners are to adjust the liability for that year and any succeeding year to give such relief as is just, taking into account any additional sur-tax that would have been payable for previous years as a result of the addition of accrued income (See *Illustration* (2)).

(*b*) *Habitual dealings in investments* cum *dividend result in the avoidance of sur-tax, or the imposition of additional sur-tax,* of more than 10 per cent. of the tax that would have been payable if accrued income had been brought into the total income instead of the dividends, interest, etc., receivable in the year of assessment. This gives relief for dividends on stocks bought full of dividend, but may " catch " dividends on stocks sold full of dividend.

The taxpayer may avoid being caught under this particular net if he can show that the avoidance of sur-tax was exceptional and not systematic and there had been no such avoidance in the three preceding years. A single avoidance is not systematic; it is exceptional. A number of sales in one year does not make a single avoidance systematic. Moreover, for the anti-avoidance provisions to have effect, regard can be had only to (i) stocks or securities entitled to interest or dividend at a fixed rate only and not dependent on the earnings of a company, and (ii) any other stocks or securities if the transactions have not been effected through a Stock Exchange in the United Kingdom and by a transfer bearing the full rate of stamp duty (See *Illustration* (4)).

These restrictions do not apply where the taxpayer is claiming relief, but he cannot claim by reference to one

asset only; the effect on sur-tax of all assets bought and sold must be considered (See *Illustration* (3)).

For both (*a*) and (*b*) above, income payable in respect of any stated period is deemed to have accrued from day to day throughout that period. If not payable for a stated period, it is deemed to accrue during the 12 months preceding the date on which it was declared payable, or during the period since the last previous declaration of dividend (not being an interim dividend in respect of a stated period), payment of interest or other yield or produce of the asset.

Illustration (1)

1950-51

	£
Own dwelling house—Net Annual Value	64
House let—Net Annual Value	50
House let—Excess Rent, Case VI	25
Dividends and interest (gross)	6,200
Business Profits (1950-51 assessment on previous year's profits)	5,162
War Loan Interest, Case III	300
Directors' fees, Schedule E	1,200
Wife's salary from business	450
Building Society Interest	30
Foreign Securities Interest, Case IV (previous year basis)	310
Income from trust (gross)	250
	£14,041
Deduct:	
Ground rent on house let ... £10	
Bank Interest paid... 55	
Maintenance Claim on house ... 30	
Loss on Farm 1,416	
Capital Allowances on Farm ... 120	
	1,631
	£12,410

Sur-tax—		£ s.
£2,000		
500 at 2/–		50
500 „ 2/6		62 10
1,000 „ 3/6		175
1,000 „ 4/6		225
1,000 „ 5/6		275
2,000 „ 6/6		650
2,000 „ 7/6		750
2,000 „ 8/6		850
410 „ 9/6		194 15
£12,410		£3,232 5

Illustration (2): Included in the dividends were two years' dividends of £500 each on Preference Shares in a company for the two years ended March 31, 1951. The total income of 1949-50 was £9,200.

Total Income			
£12,410	Sur-tax payable as in (1) ...		£3,232 5 0
500	Deduct dividend to March 31, 1950		
£11,910	£410 at 9s. 6d. ...	£194 15 0	
	£90 at 8s. 6d. ...	38 5 0	
	[Exceeds 5 per cent. of £3,232 5s. *less* £233]	£233 0 0	
	Less Sur-tax 1949-50 £500 at 7s, 6d. ...	187 10 0	
	Total Relief ...		45 10 0
	Amended Sur-tax 1950-51		£3,186 15 0

Illustration (3); (Ignore the dividends mentioned in (2)) Included in the dividends and interest was the interest on £60,000 4 per cent. Debentures received on September 30 and March 31. The debentures were bought on August 1, 1950.

Total Income			
£12,410	Sur-tax as in (1)		£3,232 5 0
880	Deduct interest earned prior to purchase		
£11,610	£410 at 9s. 6d. ...	£194 15 0	
	£390 at 8s. 6d. ...	165 15 0	
	[Exceeds 10 per cent. of £2,871 15s.] ...		360 10 0
	Sur-tax payable		£2,871 15 0

Illustration (4): Ignore (2) and (3).

Included in the dividends and interest was £1,464 received on 3½ per cent. War Loan sold *cum* dividend on October 19, 1950. The War Loan had been held for some years. It was admitted that there had been similar avoidance in the last three years.

Total Income		
£12,410	Sur-tax as in (1)	£3,232 5 0
1,464	Add interest June 2, 1950, to October 10, 1950 (140 days)	
£13,874	£1,120 at 9s. 6d.	*532 0 0
	Sur-tax payable	£3,764 5 0

(* Exceeds 10 per cent. of £3,764 5s.)

ASSESSMENT

Sur-tax is assessed by the Special Commissioners in one sum on the total income. Any appeal against the assessment must be made to them within 28 days of the notice of assessment. The grounds of appeal must be stated.

A person not resident in the United Kingdom is liable to sur-tax on his income liable to income tax in the United Kingdom, if it exceeds £2,000.

Sur-tax cannot be levied on interest receivable until it is received. If arrears are paid, the taxpayer can have them related back to the year to which they belong.

CONTROLLED COMPANIES

To prevent avoidance of sur-tax, there are somewhat complicated provisions related to certain companies under the control of not more than five persons where the company is not a subsidiary (by shareholding) of a company outside the provisions and is not a company in which the public are substantially interested. " Control " includes various artificial rules. If such a company does not distribute enough of its profits to be considered reasonable (in the case of an investment company, the whole of its profits) so as to be liable to sur-tax in the recipients' hands, the whole of the profits can be apportioned by the Special Commissioners among the members; the additional sur-tax that each member would have paid had he had such apportioned profits (less sur-tax on distributions actually received) is then collected from the company unless the member elects to pay. Owing to the requests made by the Treasury for moderation in dividends, directions rarely arise today, except in the case of investment companies, or where money is drawn from the company in the disguise of capital.

The Month in the City

Quieter Markets

With the passing of Christmas and the advent of the New Year, the stock market seemed to have been relieved, for the time being at least, from any considerable selling pressure. Instead of the usual January recovery in quotations there was a spell of reduced activity, with no very definite trend in the general level of security prices, but a slight tendency for fixed-interest stocks to be firm to strong and a tendency for industrial ordinary shares to slip back. It would probably be unduly optimistic to see anything more in this than a reflection of the fact that the first impact of the disinflationary policy had exhausted itself soon after the middle of December, so that selling pressure had declined in importance. In these circumstances, the accumulation of cash after the year-end, which usually results in higher quotations, sufficed to meet any selling pressure. What calls for some explanation is that the announcement of the extent of the fall in the gold and dollar reserve during the last quarter of 1951 failed to precipitate a new decline. Although we do not have to bear the whole burden of securing an adjustment of the sterling area's balance, it is evident that this country has to take drastic steps, and it is probable that these steps will result, in the short run—and that means a long series of months—in some actual fall in industrial output. It seems certain that the Churchill-Truman talks have yielded substantial results, and one must hope that those with the Commonwealth Finance Ministers will lead to early and adequate action. But there is a long row to hoe before we can hope to see either the U.K. overseas balance in credit once more or the dollar deficit of the area eliminated. These adverse factors, taken in conjunction with the large new issues announced at about the middle of January (see the next note), did indeed cause a sharp fall in industrial shares in the third week of the month.

A Period of Waiting

The investor will have to take account in his plans of the next set of changes the Government has in store, and there will then still be the Budget provisions to look forward to. Acute uncertainty as to what the future holds is probably one of the reasons for the rather quiet state of security business, but even now some people see what they regard as favourable opportunities to get into good stocks cheap. There is, however, one technical consideration which during the first half of January accounted for the lack of transactions. This was the absence of new issue business, which—until the large new issues of *Imperial Chemical Industries* and *Associated Electrical Industries* were announced—had been frightened away by the rise in the rate of interest and the promise of an E.P.T.—and one of quite uncertain extent. Those who regard the present as a suitable occasion to buy should remember that there is a long list of would-be raisers of money from savings which are certainly inadequate for the purpose. Of course, the Government wish to curtail such demands for capital, but no one can consider it desirable that the inability of the authorities to make their purpose clear should be the determinant of whether or no a company shall raise money, and if so in what form. As between December 21 and January 23 the following changes have occurred in the indices compiled by the *Financial Times:* Government securities from 95·59 to 96·05; industrial ordinary from 122·0 to 114·6; gold mines from 101·25 to 99·86.

Bank Earnings

At this time of year the banks emerge from the decent gloom in which they like to shroud their doings and are forced to undergo an inquisition into the state of their financial health. Little can be affirmed on this subject, as the law allows them privileges in the matter of non-disclosure denied since 1948 to the general run of public companies, but a good deal of argument is possible. This year the theme runs that, under almost every head, gross takings should have increased owing to changes in the character of investments and the rise in rates. But against this are the facts that total deposits show little change, that costs have risen sharply, and are likely to continue to rise, if only because of the age composition of the staff, and that gilt-edged stocks have fallen, while the question of doubtful debts has once again come to the fore. In these circumstances, the banks, after making whatever drafts on hidden reserves were necessary or any additions to them that were possible, and after meeting all taxation except tax on dividends distributed, have emerged with a little more to play with. But it has seemed to every London clearing bank that, having maintained its dividends, the whole of current earnings ought to be placed to contingencies, leaving nothing to be added to published reserves, which are, presumably, at the disposal of the Board for any purpose thought fit. Indeed, although for seven of the banks the amount available rose from £3,952,435 to £4,159,397, it was thought desirable to take £226,722 from the carry-forwards on balance, which last year received £284,297, when also £1,950,000 was added to free reserves and something to premises. So far, at least, there is no evidence that the banks have done other than suffer from the rise in the rate of interest, but it may be that later the gains will outweigh the losses.

Further Exchange Relaxations

The partial freeing of the foreign exchange market, to which reference was made last month, very soon showed that London possessed almost all the manpower, and certainly all the *expertise*, requisite to handle the position. It would be an overstatement to say that a very large business has grown up in so short a time, but very considerable use has been made of the new facilities, which have eased the situation in more than one respect. The great merit of increasing freedom and flexibility is that it permits, or even compels, a further extension of freedom, and in the middle of January the Bank of England was able to announce a minor development of this sort. Possibly the more important change is that London will now be free to deal in spot exchange of the Scandinavian countries with any bank in the country of that currency. This market has been hampered by the fact that as few people had these currencies the business had effectively to be done through the Bank of England. A further change is a similar permission with regard to both spot and forward French francs. The immediate result of this has been a further weakening of the French franc in London, which suggests that the market has hitherto been limited. Further, it has been possible to arrange for a multilateral free market in the "unspecified" currencies. This is the widest arrangement yet and, even if the area covered is that of less important currencies, it is at least an indication that this country is at last prepared to set an example and to take a moderate risk.

Points from Published Accounts

First Public Accounts

WHEN *Hadfields* WAS NATIONALISED UNDER the Iron and Steel Act it was permitted to "hive off" a subsidiary named *Millspaugh*, and shares in this company were issued to Hadfields' shareholders. The first accounts of Millspaugh are far from presenting a normal annual earnings picture, but it is feasible that the chairman may have put the matter in perspective at the meeting, which will have been held before these lines are in print. It is a pity, however, that the attempt has not been made with the report. This covers a period of seven and a half months, and the results include profits of four subsidiaries for periods ranging from four months to ten months. The intimation that this is so is contained in the directors' report, and not in footnotes to the accounts, and this poses the question whether the directors' report is an integral part of the accounts or not, seeing that it is the latter which are certified and that the former is not.

There is no means of reconciling the profits given with the forecast in the advertisement, which was a necessary preliminary to obtaining permission to deal in the shares, and the net profit of £167,353 carried to appropriation account is struck before making a transfer of £80,450 to tax equalisation reserve. Obviously, if initial allowances tax relief had not been in operation the net profit available for distribution would have been considerably lower, and it would have been desirable to deduct this reserve transfer before striking a net surplus.

South African Accounting Standards

South African secondary industries raised large sums of money in this country in the early post-war years. In several instances the confidence of British investors has proved to be sadly misplaced. If only because a number of companies will need to obtain further capital before very long—apart from wider considerations—it is surprising that the accounting standards of many South African concerns fall so short of those in this country. Several companies fail to present group figures, and one lumps together all its current assets. One company charges against profits the final dividend of the preceding year and the interim for the year to which the accounts related; what, then, if the final dividend for the current year were to be altered? Another company's consolidated balance sheet showed investments in four concerns, one at least of which is a subsidiary; the profits of three of them were given in the directors' report, but there were no comparative figures. The profit and loss account of another company was cluttered up with extraordinary items. It is to be hoped that the new company legislation in the Union will remedy shortcomings such as these.

Stock Profits

It is heartening to have an indication from one company chairman of the precise effect of inflation on the profit and loss account. Profits of *Aveling-Barford* rose by 50 per cent. in the past year, and the chairman points out that between one third and one half of the net figure of £208,709 is no more than a book profit resulting from the steep rise in material and stock values during the year. We have suggested before in this section of ACCOUNTANCY that it might be wise to segregate stock profits in order to get into perspective what might be termed the normal earning capacity. Some of the tobacco companies did this with the windfall resulting from sterling devaluation, and there have, of course, been big transfers to stock reserve by a large number of concerns. But shareholders by and large have not been informed if these stock reserve transfers are a precise recognition of inflation in stock values, or are merely arbitrary appropriations. They would welcome the information, and if directors made it available it could supply the defence for what, on the face of the accounts, frequently seems to be a miserly dividend policy.

Qualitative Standards for Profits?

The beginning of the year brought disappointment that the *Turner & Newall* Ordinary distribution was merely maintained. The previous year's special 2½ per cent. bonus was welded to the dividend, the chairman of the board stating that "notwithstanding the record earnings, they cannot go further so long as they feel, as they do, that such record earnings are due partly to temporary conditions which are beyond their control." One City writer contended that he could not see why, once proper provision had been made for future capital obligations and adequate current resources had been accumulated, the *quality* of the profits secured, as distinct from their *quantity*, should interfere with their distribution. Nor can we.

A Quinquennial Revaluation of Assets

The assets of *Yorkshire Copper* were revalued in 1947, and a surplus of £616,547 over book values emerged. In the latest report the directors inform shareholders that, in accordance with previously declared intentions, the first quinquennial valuation will take place in July. They say that it is very probable that a further surplus will emerge, and that the depreciation charge will be materially increased. The idea of a quinquennial, or perhaps triennial, revaluation is one that might appeal to those who, while not opposed to the general principle of revaluation of assets, are loth to undertake the task every year.

Are Investments Current Assets?

While *Castlefield (Klang) Rubber* includes its British Government securities holdings under current assets, it includes other quoted investments under fixed assets. Their book cost is only £2,367, but since the year-end value is £21,218 it may be contended that they are very much of a current asset. Trade investments and unquoted investments are also included with fixed assets.

The Ambiguities of "Net Profit"

The term "net profit" still cries out for definition. In the accounts of *H. & G. Simonds*, the Reading brewers, we find a group profit for the year attributable to the parent company of £254,227. This balance is struck *after* taking credit for £76,000 as tax relief on initial allowances on new plant and on repairs expenditure on properties charged against the provision for property maintenance, and *before* making provisions of £33,591 for property maintenance and £17,805 for pensions. Deducting initial allowances relief, the Ordinary dividend is earned with a margin of only £4,652. In footnotes showing reserve movements there is a £105,000 reduction in capital reserve, which is applied in reducing the directors' valuation of shares in an associated company. It does not emerge from the report or the chairman's speech why this big writing down should be necessary, but that is hardly the accountant's pigeon.

Letters to the Editor

E.P.T.—Deferred Repairs

SIR,—In a case with which I am dealing the Inspector contends that the deferred repairs which were carried out in, say, 1949, can be spread back to, say, 1933, when similar work was last performed. The amount applicable to the standard years will then reduce the standard profits, thus creating additional E.P.T. liability in all chargeable accounting periods.

I think it has been argued that this could not be done, on the grounds that under Section 37 (4) proviso, Finance Act, 1946, the expression "deferred repairs" can only include amounts allowed as a deduction in chargeable accounting periods, that sub-Section 1 (*a*) only refers to deferred repairs and can therefore only refer to chargeable accounting periods, and Section 37 only really deals with chargeable accounting periods and cannot affect the standard period.

Apart from this, however, normally the expenditure could be spread by virtue of Section 33 (2) of the Finance Act, 1940, but if the actual expenditure is incurred in an accounting period ending after December 31, 1947, this section is suspended by Section 43 (1), Finance Act, 1946.

Therefore, no reduction in the standard profits can be made by virtue of the deferred repairs carried out in 1949.

Has any reader been successful along these lines?

Yours faithfully,
R. RICKABY, A.C.A., A.S.A.A.

Sunderland,
January 12, 1952.

[Deferred repairs could be spread back into the standard E.P.T. periods, although it seems that this was very seldom done. The important point is: "When would the repairs normally have been carried out?" If, for example, it had been the custom to do them every five years, then that fact should be taken into account.—Editor, ACCOUNTANCY.]

Section 33, Income Tax Act, 1945

SIR,—We shall be much obliged if you can assist us in connection with claims under the above section relating to capital expenditure on improvements to a farmhouse which is occupied by an employee. We have had one or two cases recently, and we have claimed that the whole of the expenditure (such as the installation of electricity) should be allowed under Section 33 and that the restriction under Section 33 (2) should not apply. Our claim has been made on the grounds that the owner (who is also the employer) derives no personal benefit in the way of amenities.

The Inspector of Taxes takes the view that the claim should be restricted by applying Part 2 of Section 33 as the property in question is a "farmhouse." He also says "once a farmhouse, always a farmhouse," and yet there appears to be no definition of a farmhouse anywhere in the Income Tax Acts.

We asked the Inspector of Taxes whether any similar cases had been taken to appeal before the General Commissioners, and he informed us that they had not, which leads us to believe that the view of the Inspector has therefore been accepted.

We shall be grateful to have your comments or those of any readers who have experienced similar cases.

Yours faithfully,
SWALLOW, CRICK & Co.,
Incorporated Accountants.

Peterborough,
January 11, 1952.

[Our Tax Correspondent replies that whether or not a house is a farmhouse within the meaning of the Act is a question of fact. The Inspector of Taxes is in error in saying "once a farmhouse, always a farmhouse." In one case where an employee was occupying the house our correspondent was successful in his contention that it was not a farmhouse. But the facts were rather different from those in our reader's case, and the decision does not, therefore, amount to a precedent. Everything depends upon the exact circumstances, and no useful guidance can be given without a knowledge of the full facts.—Editor, ACCOUNTANCY.]

"Private" Market Gardens

SIR,—I have read with interest the correspondence in the November issue of ACCOUNTANCY on the subject of "Private" Market Gardens and in particular your Taxation Correspondent's remarks thereon.

It is my experience that where a market garden is carried on as a business and the supply to the house in small degree, then the treatment for income tax purposes of the supply to house and the computation of the relief in respect of loss under Section 34 of the Income Tax Act, 1918, is as shown in the example in the issue of October 1951, page 386. Where, however, accounts are prepared on behalf of clients who do not, in fact, carry on market gardens *primarily* as a business the Inspector of Taxes has only been prepared to allow the loss incurred on the outside sales for the purpose of Section 34 relief as follows:

	£
Sales	150
Supply to household—estimated ..	130
	£280
Total expenditure in Farm Trading Account	650
Less: Stock variation:	
Opening Stock .. 55	
Closing Stock 90	
—	35
	615
Add: Schedule "A" Valuation, say	10
	£625
Cost of Supply to House, $\frac{130}{280}$ of £625	£290
Adjusted Loss per Trading Account	345
Deduct; Cost of Supply to house 290	
Less: Credit in Trading Account for supply to House .. 130	
—	160
Adjusted Loss for purposes of Section 34 Relief	£185

Your Taxation Correspondent states that "it must be obvious that anyone growing produce cannot make a profit or loss out of himself" and it therefore seems to me that where the supply to the house is a very considerable proportion of the total turnover, one cannot expect to be allowed the loss on household consumption for income tax purposes, or otherwise an inordinate amount will have been expended in producing the outside sales and it therefore seems to me reasonable that the Inspector should restrict any claim under Section 34 of the Income Tax Act, 1918.

Accordingly I feel that it would be difficult to contest the Inland Revenue's action in such a case and I would therefore question the comment by your Taxation Correspondent that "many accountants are prone to accept the decisions of Inspectors of Taxes uncritically without themselves looking into the Acts to see whether the Inspectors are justified."

Perhaps you would advise me of any Statute which would enable me to contest the Revenue's basis of computation as above where the supply to the house is relatively large in proportion to the total sales.

Yours faithfully,
"EAGLETON."

Belfast,
January 14, 1952.

[Our Taxation Correspondent replies that in most of these cases the supply to the house is

relatively large and he repeats that in his experience the Inland Revenue have always finally agreed the basis given in the note in our October issue.

The market garden is either a business, or it is not a business, and if the land is used for farming in any way then the word " primarily " is not relevant. Our reader apparently agrees with the Inland Revenue but asks to be informed of any Statute which will enable him to contest their basis of computation. Surely the boot is on the other foot: he should be asking the Inland Revenue for their authority, which does not exist!—Editor, ACCOUNTANCY.]

Incorrect Declaration of Solvency

SIR,—I have read with considerable interest the correspondence and editorial note in your January 1952 issue (pages 42-44) following publication of Mr. Saville Cohen's letter in your previous issue.

Since I happen to be the liquidator referred to in the correspondence, and because of the considerable interest aroused, your readers may care to have my observations.

1. The point under consideration is whether, in a case where a liquidator appointed by the members following a declaration of solvency calls a meeting of creditors under Section 288, Companies Act, 1948, the creditors are empowered to replace him as liquidator by their own nominee or to appoint their nominee to act jointly with him. In my view, the creditors have no such power under the Section.

2. The purpose of the meeting is that the liquidator appointed by the members " shall lay before the meeting a statement of assets and liabilities of the company."

3. The Section requires that a liquidator, who has reason to believe that a declaration of solvency filed under Section 283 is not likely to be fulfilled within the stated period, should lay the facts before a meeting of creditors, who are then enabled to decide whether to exercise their right of presenting a petition to have the company wound up by the Court.

4. Whilst I agree that once Section 288 operates, Section 299 (concerning annual meetings) and Section 300 (concerning the final meeting and dissolution of the company) replace Sections 289 and 290 for the purposes of winding-up, this is of comparative unimportance compared with the major point at the outset as to the position of the liquidator who calls the meeting.

5. Since under Section 288 the only business of the meeting is the presentation of the statement of assets and liabilities, it seems fairly obvious that the liquidator, who acts as chairman, does not have to allow resolutions concerning the appointment of any other liquidator or of a Committee of Inspection.

6. It appears that in view of the operation of Sections 299 and 300 the liquidation proceeds after the meeting of creditors in some other respects " as if the winding-up were a creditors' voluntary winding-up and not a members' voluntary winding-up." But there seems to be no duty on the liquidator of bringing directly to the notice of the Registrar of Companies that a meeting under Section 288 has been called, save by advertisement in the *Gazette*.

7. It is understandable that circumstances in a liquidation may be such that a liquidator is not necessarily in a position to form an " opinion that the company will not be able to pay its debts in full within the period stated in the declaration " immediately upon or shortly after his appointment. It could well be, for example, that a sudden decline in the value of stocks, as recently in the woollen industry, or the unexpected failure of a substantial debtor or the crystallisation of contingent claims at substantially higher sums than originally anticipated, could produce the situation covered by Section 288. This position might arise within a month of the liquidator's appointment by the members or it might even be nearly twelve months afterwards. Clearly, a liquidator would have proceeded meanwhile to realise assets and he may have gone far in the admission of claims.

8. I believe those who drew Section 288 did not overlook that it did not provide for the appointment of a creditors' nominee as liquidator instead of or jointly with the members' nominee. On the contrary, they might well have appreciated that since a meeting under Section 288 might be called at any time within a period of 12 months from the date of the declaration of solvency, neither the process of liquidation nor the person responsible as liquidator up to that point ought to be disturbed, except when there are circumstances which warrant removal of the liquidator. Additionally, the right is always open to a creditor of applying to the Court for a winding-up order.

9. The main duties of a liquidator are to realise assets at best advantage and to distribute available proceeds in the proper order, namely, preferential claims first, unsecured claims second and contributories last. If a liquidator is undertaking his duties with proper sense of responsibility, and professional men are assumed to do so, then surely the interests of creditors should be as safe in the hands of a liquidator appointed by the members as they would be in the hands of one appointed by the creditors. In any case, a liquidator is personally liable in cases of negligence or misfeasance.

10. There is, nevertheless, every justification for observing that where a meeting is held under Section 288 the liquidator should, at subsequent stages of the liquidation, take representatives of the creditors into counsel. For that reason I feel the Section would be improved by providing for the appointment of a Committee of Inspection to act with him where creditors so desire.

11. Because liquidators may not always be appointed from the ranks of professional or other persons of the highest integrity and of sound financial status, I feel there would be an added safeguard for both members and creditors if liquidators were required to give a bond similar to that often required of trustees in other cases.

Yours faithfully,
DESMOND B. HIRSCHFIELD, F.C.A.
London, W.C.1,
January 18, 1952.

Valuing Shares in Private Companies

SIR,—I would be glad to receive some practical guidance on the method to adopt for valuing the shares of a private limited manufacturing company for purposes of estate duty and for fixing the value at which the shares are to be taken over by the remaining shareholder and director, assuming two equal shareholders who are also directors.

Yours faithfully,
D. BRENTNALL HILL, A.S.A.A.
Ruthin, N. Wales.
January 9, 1952.

[Some assistance on this question is to be obtained from the papers by T. A. Hamilton Baynes, M.A., F.C.A., and by W. G. Campbell, B.A., F.C.A., noted on page 447 of our issue of December, 1951. These are contained in the Report of the Autumnal Conference of the Institute of Chartered Accountants—obtainable from the Institute, Moorgate Place, London, E.C.2, price 5s.—Editor, ACCOUNTANCY.]

Maintenance Claims—Concessions

SIR,—I have recently been endeavouring to settle a maintenance claim on the basis of the second method referred to in the January 1951 issue of ACCOUNTANCY (page 21), but the Inspector informs me that this method is now obsolete. I do not recollect seeing any note in subsequent issues and wondered if your contributor has any comments.

Yours faithfully,
F. C. R. MOULE, A.S.A.A.
Nottingham,
January 14, 1952.

[Our Taxation Correspondent replies as follows: The method is not obsolete and I have had it applied in several cases in recent months. For the statutory repairs allowance to be included in the average there must be some evidence that the previous owner had done some repairs, though no figures are available. A statement of facts is usually accepted.—Editor, ACCOUNTANCY.]

Publications

THE TECHNIQUE AND PRINCIPLES OF AUDITING. By Andrew Binnie, F.C.A., C.A., and Brian Manning, F.C.A. Second edition by Brian Manning, F.C.A. (*Sir Isaac Pitman and Sons, Ltd., London. Price £1 15s. net.*)

The traditional approach to this subject is (*a*) to consider the checking and verification of records, balance sheet, profit and loss account and other accounts that mirror the summary of the records, (*b*) to see that all statutory requirements and other regulations are complied with. The extension of the work of the auditor that has taken place, particularly over the past thirteen years, since the date when the first edition of this book was published, has not altered the fundamental nature of his task. But it does reflect growing industrial development, increasing awareness by industry of its own detailed activities and the tremendous impact that the State is having on every form of enterprise. The work of the auditor unfortunately tends in many instances to be entirely negative. He is dealing with past history; he points out flaws; he amends; he confirms. But he is, in a sense, an onlooker and not an integral part of the complex of forces around him. The traditional approach tends to place more and more emphasis on financial records and consequently many of the auditor's preoccupations at the present time are concerned with changing money values, both in the valuation of fixed inventories and current stocks and assets and also in the conception of profit. In addition, following the development of internal organisation and check, the work of the auditor tends more and more to routine and standardisation.

All this poses the question whether the approval of accounts is sufficient discharge of the auditor's responsibility and a sufficient outlet for his expert knowledge of industry and finance. Modern developments tend to suggest that auditors may be preoccupied more and more in the future with intangibles —not so much with value in terms of money but value in terms of efficiency. In a country which is gradually developing a system where production is regulated by authority, via supplies of raw materials and equipment, in relation to a demand itself set by authority in perspective with other demands in the economy, the audit of internal money value statements must give way in importance to the audit of material controls, checking and use of stocks and use of factory space, machinery, management and labour, except in so far as money statements reflect these physical categories. This is not simply a task to be handled by cost accountants: fundamentally, the auditor is just that independent observer and investigator who should confirm and report on a standard of performance within a defined sphere. This would be work of a positive value and would directly indentify the auditor with the growth and maintenance of the country's industries.

Mr. Brian Manning, who is responsible for the second edition of this book, states in his introduction that it must be recognised that the full meaning of the auditors' reports is only likely to be understood by the expert. This is unfortunate: a simplification of auditors' reports should continually be a matter for consideration by the accountancy bodies. The matters outlined in this very useful book are obviously for the expert, but the public who receive auditors' reports are not concerned with the processes but with the results, which must be set out in a clear, practical and intelligent manner.

A number of controversial points are tackled by the author. For example, stock valuation is discussed in some detail and the Institute's recommendations are given in an appendix. The *Kingston* case is quoted but is thought to be out of context in present-day practice. One of the clearest recommendations an auditor can make is that the firm should keep a detailed plant register with a control account.

The author rightly points out that the auditor should write to the bank for a certificate of the balance at audit date, but it is also advisable to ask the bank for details of the securities held and how the account is covered. The difficulties arising in connection with directors' emoluments in Sections 196 and 198 of the Companies Act, 1948, are dealt with very fully, but a copy of the statement now usually obtained (although not compulsorily) from directors by auditors under Section 198 would have been helpful. A number of very old cases are quoted to illustrate principles but no mention is made of the recent *Crittall* case (perhaps delays in printing explain this omission). The Judge in this case stated that the authorities should consider whether the system of appointing a firm of auditors is a satisfactory one.

The author takes the attitude in connection with auditors' remuneration that it is sufficient to show the audit fee and audit expenses only in the profit and loss account, fees for other work such as taxation, accountancy work, etc., being separated. Claims on a company arising under the Estate Duty provisions of the Finance Act, 1940, directions in respect of sur-tax, and difficulties arising from the application of the Income Tax Act, 1945, are not dealt with, but illustrate the type of legislation with which the auditor must be familiar. The book deals fully with such matters as investigations, the accounts of executors and trustees, partnerships and verification of the transfer of shares. Mechanised accounting and audit procedure are briefly discussed.

In all, this is a very useful book to both students and practitioners.

C. R. R.

THE ACCOUNTING MISSION. By F. Sewell Bray, F.C.A., F.S.A.A. (*Melbourne University Press for the Commonwealth Institute of Accountants. Agents: Cambridge University Press, London. Price 15s. net.*)

Although this book reproduces the series of lectures delivered by the author in various parts of Australia, it nevertheless constitutes a unified work. It deals largely with a subject which Mr. Sewell Bray has made his own, namely, social accounting, the theory and practice of the construction of aggregated accounts for whole sectors of a country's economy—businesses as a whole, consumers as a whole, and so on.

Of his various writings on the subject, this is undoubtedly the best general exposition. Doubtless this is because Mr. Sewell Bray knew that he was introducing a new subject to his audiences in Australia and he has taken less for granted than in those of his writings intended primarily for readers in this country.

One of the most useful chapters deals with the identity of aggregate savings and "asset formation." This accounting illustration of this important economic truth is most valuable. Perhaps the least successful chapter is that on "Standards of Effectiveness," but the author introduces it with such diffidence that one scarcely dare criticise it. In any case, this essay into the realms of administration of nationalised industries has the merit of introducing to accountants some much-neglected topics.

Mr. Sewell Bray is one of those accountants who regard their subject as meriting academic status. All his writings reflect this view and in the remarks on the approach to accounting in the first chapter ("An Academic Accountant's Apology") and in the suggestions for lines of research in the last chapter ("Accounting Research") he brings this out most clearly.

In the foreword he has contributed to this work, Professor Fitzgerald of Melbourne University rightly says that "accountants need to be provoked to think more deeply than they have been accustomed to do

about the theory on which their practices are founded." Mr. Sewell Bray never fails to produce the required provocation.

H. N.

THE ELEMENTS OF INCOME TAX LAW. By C. N. Beattie, LL.B. (*Stevens and Sons, Ltd., London. Price £1 10s. net.*)

Properly used, this is an invaluable little book. It has none of the forbidding aspects of many technical books, its format being attractive—even elegant—and the print clear and well set out.

With becoming modesty the title undervalues the contents; "The *Structure* of Income Tax Law" might have been a more worthy title.

By itself it is not sufficient as a text-book for accountancy students, nor as a reference book for practising accountants. The author explains that it was written principally for solicitors, and it covers most of the ground (apart from detailed computations) in a lucid and concise manner. Thus it enables one to see tax wholly.

The introduction states unequivocally:

> It is the duty of a professional man to act in his client's interests, and to advise as required on ways of minimising tax liability.

We are given a brief glimpse of the administration of income tax; a close examination of the chaotic state of the rules relating to property, and the equally chaotic rules nineteen and twenty-one; succinct chapters on settlements, and on the assessments on man and wife; and an explanation of the procedure in each case.

A number of details have necessarily been omitted. It is advisable to emphasise, for example, that the Inland Revenue insist that Section 140 (2) Income Tax Act, 1918, does not absolve a person from penalties if he has failed to lodge a return as prescribed by the Finance Act, 1942, Tenth Schedule. It may not be good law, but the Revenue have the whip-hand in back duty cases.

This work is precise and fully referenced, and is an impressive statement of statute and case law in a most readable and compact form. It is well worth a place on the professional accountant's bookshelf.

D. E. B. S.

STABILISED ACCOUNTING. By G. R. Lees, M.A. (*The Northern Publishing Co., Ltd., Liverpool. Price 2s. 6d. net.*)

The debate upon accounting for inflation continues: here is another contribution. Two principal aims may be distinguished in the discussion. Firstly, the adjustment of profits for purposes of assessment to taxation and, secondly, adjustment in order to present a true and fair view of the real profit for the year.

In this booklet Mr. Lees advances a method of achieving both aims by a single adjustment. The method is relatively simple, thus overcoming the first stumbling block in this subject. Unfortunately, the author's discussion of the theoretical side of his subject is very thin. The consequence is that it is far from clear that the result Mr. Lees obtains is in any way related to the theoretically desirable result.

The method adopted is to adjust the stabilised capital by a factor reflecting changes in the value of money. The stabilised capital comprises those assets in the opening balance sheet which may normally be expected to expire some time during the life of the business, less the outside liabilities.

Whilst this booklet puts forward some interesting points, such as balancing charges and allowances, and loans from the Treasury in periods of rapidly falling prices, the treatment is, on the whole, too sketchy to be satisfactory. There are only 14 pages of exposition, the remainder being devoted to tables and two examples.

E. B. P.

AN OUTLINE OF THE LAW OF TRUSTS AND TRUSTEES. By H. A. R. J. Wilson, F.C.A., F.S.A.A., and C. N. Beattie, LL.B., Barrister-at-Law. (*H.F.L. (Publishers), Ltd. Price 5s. net.*)

This pamphlet is a reprint of a new chapter, comprising 56 pages, which appears in the latest edition of that excellent work *Executorship Law and Accounts*, by Ranking, Spiers and Pegler. It is divided into two parts, the first 25 pages being devoted to an outline of the law of trusts and the remaining 31 pages to trustees.

Perhaps one of the principal merits of the main work is the quite exceptional lucidity with which it deals with a very technical subject. The authors of this pamphlet are to be congratulated on the skill with which they have compressed in a very small space, and with an almost disarming clarity, their outline of the main features of the law. If there is a danger, it is that the student may possibly be led to believe that the subject is a good deal easier than it is in reality; but after all, it is worth running that risk to help him over a difficult stile. Such experienced authors, no doubt, have had excellent reasons for their omissions but, possibly, they may feel it worth considering in the next edition whether from the accountant's point of view, space could be saved for a reference to *Young* v. *Sealey* (1949, Ch. 278) on page 4 and to *Re Rose* (1949, Ch. 78) on page 10.

The second part on trustees is excellent and must surely fill a long-felt need. Perhaps in the last line of page 28, the alternative of a "public" trust (which in this connection is not synonymous with a "charitable" trust) might be inserted.

There are one or two very slight and obvious misprints but it may be mentioned, for the benefit of students, that on page 21 "diverted" should read "divested."

C. L. L.

BOOKS RECEIVED

SECOND SUPPLEMENT TO SPICER & PEGLER'S INCOME TAX. Nineteenth edition. By H. A. R. J. Wilson, F.C.A., F.S.A.A. (*H. F. L. (Publishers), Ltd. Price 2s. 6d. net.*)

SPICER & PEGLER'S PRACTICAL AUDITING. Tenth edition by Walter W. Bigg, F.C.A., F.S.A.A. (*Sir Isaac Pitman & Sons, Ltd., and H.F.L. (Publishers), Ltd. Price 27s. 6d. net.*)

FIRST AND SECOND SUPPLEMENTS TO WILSON AND HEATON ON THE INCOME TAX ACT, 1945. By H. A. R. J. Wilson, F.C.A., F.S.A.A., and James S. Heaton, F.S.A.A. (*H.F.L. (Publishers), Ltd. Price 5s. net.*)

MANAGEMENT OF THE SMALLER OFFICE. Prepared by the Office Management Association. (*British Institute of Management and Office Management Association, Management House, 8, Hill Street, London, W.1. Price 6s. net, post free.*)

IMPORTANT SECTIONS of the Bills of Exchange Act, 1882; Factors Act, 1889; Sale of Goods Act, 1893; Carriage by Air Act, 1932; Hire Purchase Act, 1938; Limitation Act, 1939; Law Reform (Frustrated Contracts) Act, 1943; Bank of England Act, 1946; Borrowing (Control and Guarantees) Act, 1946; Industrial Assurance and Friendly Societies Act, 1948; and Export Guarantees Act, 1949. (*Textbooks, Ltd. Price 3s. 6d. net.*)

(*Further "Books Received" are on page 69*)

Norman Ward Wild, F.C.A.

It is with regret that we record the death on December 23, 1951, at the age of 67, of Mr. Norman Ward Wild, F.C.A., senior partner in the firm of Franklin, Wild & Co., Chartered Accountants, London, E.C.2.

Mr. Wild, who was articled to the late Sir George Franklin, was admitted as an Associate of the Institute in 1907 and elected a Fellow in 1913. In 1908 he became a partner in the firm of Franklin, Wild & Co. On the death of his father, the late Mr. Thomas Frederick Wild, he became senior partner. Mr. Wild had many friends and professional connections in the United Kingdom and overseas.

The funeral service at St. Marylebone Parish Church, London, on December 27, was attended by a large number of friends and members of the firm's staff.

Legal Notes

Company Law—Statute-barred Debts

In re **Art Reproduction, Ltd.** (1951, W.N. 560), Wynn-Parry, J., held that, even in a solvent voluntary winding-up, a liquidator cannot properly pay statute-barred debts unless the contributories consent.

Company Law—Appointment of Directors

Under the articles of a private company the number of directors was to be not less than one or more than five. Any casual vacancy occurring in the board could be filled by the directors, but the person chosen was to retire at the same time as if he had become a director on the day on which the director in whose place he was appointed was last elected. Further, the directors could appoint an additional director who was to retire at, but might be re-elected by, the next ordinary general meeting of the company.

In May, 1949, one of the two directors of the company resigned and the other remained as sole director until January 1951, when A was specifically appointed as an additional director. In April 1951, the directors resolved that B should also be appointed a director, without stating whether this was an additional appointment or the filling of a casual vacancy. In May 1951, at the annual general meeting it was proposed that both A and B should be elected additional directors but neither was elected.

B, however, claimed that he was still a director: he had been appointed to fill the casual vacancy created by the retirement of the director in May 1949, and he did not have to retire at the general meeting. In **Zimmers, Ltd. *v.* Zimmer** (1951, W.N. 600), Parker, J., decided against B. A casual vacancy could not be filled unless the vacancy still existed and by April 1951, the vacancy had ceased to exist. At that date, therefore, B had been appointed an additional director and he had to retire at the general meeting.

Company Law—Restoration of Defunct Company to Register and Winding-Up

A company had been struck off the register by the registrar of companies under Section 353 of the Companies Act, 1948. The company, which had been formed for charitable purposes, had long before ceased to carry on business and the dissolution was not in fact known to any of the members of the company, until the committee of management consulted solicitors about arranging a winding-up. A petition was presented asking that the company should be wound-up, but this petition was subsequently amended to ask that the company should be first restored to the register and then wound-up. In **re Cambridge Coffee Room Association, Ltd.**, (1951, W.N. 621), Wynn-Parry, J., made the orders as asked and observed that in future cases it was desirable that the petition should follow the form of the amended petition.

Company Law—Share Premium Accounts

By Section 56 (1) of the Companies Act, 1948:

> where a company issues shares at a premium, whether for cash or otherwise, a sum equal to the aggregate amount or value of the premiums on those shares shall be transferred to an account called "the share premium account" and the provisions of this Act relating to the reduction of the share capital of a company shall, except as provided in this section, apply as if the share premium account were paid-up share capital of the company.

This is a new provision in company law and the case of **Henry Mead & Co., Ltd. *v.* Ropner Holdings, Ltd.** (1951, 2 A.E.R. 994) has shown that its application is wider than had been commonly supposed. R.H., Ltd., was formed as a holding company to acquire and amalgamate two shipping companies formerly carried on separately under the same management. The assets of these two companies were valued and the one having slightly the greater assets distributed by way of a capital profit dividend a sufficient sum to its shareholders to reduce the value of its assets to an equality with the other company. The authorised capital of R.H., Ltd., was then fixed at the total of the nominal issued capital of the two companies and their shareholders were issued £ for £ shares in R.H., Ltd., to the tune of some £1,700,000. According to the valuation the assets taken over by R.H., Ltd., were in fact worth £5,066,506 more than the nominal value, after taking into account some small formation expenses, and the whole of this sum was shown in the share premium account.

The plaintiffs in the action were large shareholders in R.H., Ltd., and they claimed an injunction to restrain the company from showing this sum in the share premium account. They said, and the directors agreed with them, that to show the sum in this way was undesirable as it made the capital structure of the company too rigid. Harman, J., however, dismissed the action: the transaction was not, he said, one that would normally be described as the issue of shares at a premium, but he had to give effect to the words "or otherwise" in Section 56 (1). These shares had been issued for a consideration other than cash and the value of the assets acquired was more than the nominal value of the shares issued: therefore the shares had been issued at a premium and the excess must be shown in the share premium account.

Executorship Law and Trusts—Expense of Conveying Chattels to Legatee

In **re Fitzpatrick** (1951, W.N. 565), a testatrix, domiciled in England, made a bequest of certain chattels in Monte Carlo. The executors incurred considerable expense in conveying these chattels to the legatee in England. Harman, J., following in **re Scott** (1915, 1 Ch., 592), held that the legatee must indemnify the executors for the expense.

Executorship Law and Trusts — Dependent Relative Revocation

The doctrine of dependent relative revocation is not as formidable as it sounds. If a testator destroys a will in the belief that certain facts exist or that certain legal consequences will follow, and the belief is mistaken, then the destroyed will is still held to be effective. Perhaps the most common example of the doctrine is the case where a testator destroys a will in the belief that he has validly executed a later will, but that later will turns out to be invalid.

In **the Estate of Botting, deceased** (1951, 2 A.E.R., 571) the deceased executed a valid will in 1947; this was last known to have been in the possession of the deceased and could not be found at his death. The presumption therefore was that he had destroyed it. In 1949 the deceased signed another document which was intended to be, but was in fact not, a valid will. It was argued that the doctrine of dependent relative revocation did not apply because, according to Lord Penzance in *Homerton* v. *Hewett* (1872, 25 L.T., 854), the doctrine is not applicable except where there is proof of the actual destruction of the instrument. Havers, J., said that to prove the destruction of the instrument it was not necessary to call a witness who had actually seen the instrument burnt or destroyed. The fact of destruction could be proved in various ways and on the evidence before him he was satisfied that the 1947 will had been destroyed in the mistaken belief that the 1949 document was a valid will. The doctrine applied and he admitted to probate the completed draft of the 1947 will.

THE SOCIETY OF
Incorporated Accountants

REPLACEMENT COSTS AND RE-VALUATION

THE ANNUAL DINNER OF THE INCORPORATED Accountants' District Society of Sussex was held at the Royal Hotel, Brighton, on January 11. The chair was occupied by Mr. F. V. Arnold, F.S.A.A., President, who was wearing for the first time the presidential badge of office which he recently presented to the District Society.

A large company included the Mayor of Brighton (Alderman Eric Simms), the Right Hon. Sir John Anderson, G.C.B., a former Chancellor of the Exchequer, Sir Leslie Bowker, O.B.E., M.C. (City Remembrancer, City of London), Mr. C. Percy Barrowcliff, F.S.A.A. (President of the Society of Incorporated Accountants) and Mr. I. A. F. Craig (Secretary); the Mayor of Hove (Councillor A. E. Brocke), Sir Roland Burrows, K.C., Mr. R. C. Pascoe, J.P., and many representatives of professional bodies, commerce, and the Inland Revenue.

The Rt. Hon. Sir John Anderson, G.C.B., proposing the toast of "The Society of Incorporated Accountants and Auditors and the Accountancy Profession," said that accountants, especially in these days of difficulties and complicated economic situations, fulfilled an important rôle in that, through their knowledge, the complicated and confusing matters which surrounded and sometimes almost submerged any business, large or small, could be made understandable to the man of average intelligence. There was nothing to which an accountant could not turn his hand. He recalled that many famous men at present holding high office in this country had originally set out as accountants. The accountant was a realist, and was capable of exposing the wrongdoers, and these qualities were more than ever important in the world today.

Mr. C. Percy Barrowcliff, F.S.A.A., the President of the Society of Incorporated Accountants, in response, said that they all appreciated the privilege of having the toast of the Society proposed by Sir John Anderson. In thanking Sir John for the gracious terms in which he proposed the toast, he would convey to him the warmest congratulations of the Council on the great honour conferred on him by His Majesty the King—an honour so richly deserved for his distinguished public services. They rejoiced with all his friends, known and unknown, in this signal acknowledgment of an outstanding contribution to the affairs of the country.

Mr. Barrowcliff said he was delighted to be present because this was their "baby" District Society. It was a source of infinite pleasure to the Council to see such progress being made in Sussex. Much credit was due to the President, Mr. F. V. Arnold, the secretary, Mr. Lee, and a number of others who had worked so hard to establish the District Society. They hoped that it would go from strength to strength.

The Society's Council, gravely concerned about the failure of existing accountancy conventions to reflect in accounts the effect of the rapidly increasing price level, had set up a special committee, which included four leading representatives from trade, commerce, finance and economics, to enquire into the whole position. The committee was already at work and it was hoped they will soon reach some definite conclusions. Speaking, in the meantime, only for himself, he felt that the insistence of the profession on the use of original cost in calculating depreciation and in valuing stock was the cause of all the trouble. They were charging a running cost against revenue which was not a current measurement of that cost. The true measurement must surely be the cost of replacement, not the original cost. Otherwise how was the continuity of business to be ensured if wastage of capital took place and was not provided for out of revenue? Obviously there could only be one end to that position. Either the business must come to a full stop, because of a lack of capital for replacement of its capital structure, or new capital had to be found to replace the wastage. In his considered view it followed, therefore, that it was not sufficient nowadays to recover the original cost of assets from revenue. The proper charge was the replacement value, so that a correct measurement of real profit would be arrived at and the capital of the business maintained.

It had been argued that there were many practical difficulties in trying to give effect in accounts to the implications of changed money values. He agreed there were difficulties, and really serious difficulties, but a practical plan had been worked out which he thought met all reasonable criticism. It provided for a measurement of real profit based upon matched revenue and expenditure as nearly as possible on the same price level, and after providing for *all* expenses of carrying on business on a continuing and permanent basis. Whilst the desired aim was to measure real profit and protect capital, it was not thought desirable or necessary to write-up the balance sheet assets to current values. There was sound reason for maintaining original costs in the balance sheet. It then showed clearly how the contributed money capital of the business had been expended and could be regarded as a document which reported on the stewardship of contributed money capital and savings. Realisation of the capital structure was not an objective of a continuing business and therefore it would appear artificial to write-up the values in the balance sheet when realisation was not contemplated, and when in fact the values could not be realised without discontinuing the business. Furthermore, variations from year to year in the intrinsic value of assets which were not turning over would create difficulties in keeping a consistent and readily understandable balance sheet. Contributed money capital invested in a business had the original stated value and everyone understood that it was the precise value at that moment of time. Thereafter, the original stated value was maintained in the balance sheet, but its precise value would then depend on a variety of factors, not least among which would be the earning capacity of the business. But these factors were not assessed and added to the balance sheet figure of capital.

These were then the adjustments to the present accountancy conventions which many of them felt must be accepted to meet present-day conditions.

The toast of "Our Guests" was proposed by Mr. E. Webb (vice-president of the Sussex Society). Sir Leslie Bowker, O.B.E., M.C. (City Remembrancer, City of London), replied.

Mr. R. C. Pascoe, J.P., proposed the toast "The Incorporated Accountants' District Society of Sussex." He said that when confronted by an accountant he always suffered a feeling of inferiority. To date he had not had an accountant in the dock when he had been sitting on the bench. If this situation should arise no doubt he would lose his complex and perhaps, even, the tables would be turned. Mr. Pascoe described the District Society as a lusty infant, and considered that it was using its considerable influence to the best advantage and was setting a fine example for similar professional bodies.

Mr. F. V. Arnold (the President of the District Society) in reply said that accountants, especially in Sussex, enjoyed the happiest of relations with their colleagues.

FEBRUARY 1

Birmingham: "Mercantile Law—Sale of Goods," by Mr. C. L. Lawton, M.SC., Barrister-at-Law. Law Library, Temple Street, at 6.15 p.m.

Manchester: "Profits Tax," by Mr. J. S. Heaton, F.S.A.A., Chairman of the Incorporated Accountants' Research Taxation Committee. Students' meeting (Final). Incorporated Accountants' Hall, 90, Deansgate, at 6.30 p.m.

Newcastle upon Tyne: "Balance Sheet Investigations and Reports," by Mr. R. Glynne Williams, F.C.A. 52, Grainger Street, at 6.15 p.m.

Plymouth: "Insolvency," by Mr. A. V. Hussey, F.S.A.A. Mock meeting of creditors. Law Chambers, Princess Square, at 6 p.m.

Preston: Dinner.

FEBRUARY 4

London: "Reorganisation of the Capital of a Limited Company," by Mr. H. J. S. French, O.B.E., B.C.L., Director, London and Yorkshire Trust. Students' meeting. Incorporated Accountants' Hall, W.C.2, at 6 p.m.

Luton: "Cost Accounts," by Mr. W. W. Bigg, F.C.A., F.S.A.A. Students' meeting. Public Library, at 6 p.m.

Sheffield: "Accounting—Diagnosis or Post Mortem?" by Mr. P. G. James, B.COM., F.S.A.A., member of the Research Management Committee.

FEBRUARY 5

Dudley: "Banking," by Mr. A. J. W. Hall, A.I.B. Dudley and Staffordshire Technical College, Broadway, at 7 p.m.

Leicester: Students' annual dance. Oriental Hall, at 8 p.m.

London: Luncheon Club meeting. "Some Reflections on the Companies Act, 1948," by Mr. E. H. S. Marker, C.B., Under-Secretary, Board of Trade. Connaught Rooms, W.C.2, at 1 p.m.

FEBRUARY 6

Bristol: "Overseas Lending," by Mr. J. McLeod, Lloyds Bank, Ltd. Students' meeting. Royal Hotel, College Green, at 6.30 p.m.

FEBRUARY 7

Hull: "Insolvency," by Mr. A. V. Hussey, F.S.A.A. Students' meeting. Church Institute, Albion Street, at 6.15 p.m.

Nottingham: "Punched Card Accounting" (illustrated by sound films), by Mr. L. Winter, Powers-Samas Accounting Machines, Ltd. Reform Club, Victoria Street, at 6.30 p.m.

Oxford: "Executorship Law—Apportionments," by Mr. V. S. Hockley, B.COM., C.A. Arranged by London Students' Society (Oxford Section) jointly with the Oxford Chartered Accountant Students' Society. Kemp Café, Broad Street, at 6.30 p.m.

FEBRUARY 8

Birmingham: "Current Mercantile Law," by Professor Hugh Goitein, LL.D., M.COM. Joint meeting arranged by University of Birmingham Accounting Society. Mason Theatre, the University, Edmund Street, at 6.30 p.m.

Bradford: "Double Taxation," by Mr. P. F. Hughes, A.S.A.A., A.C.I.S. Liberal Club, Bank Street, at 6.15 p.m.

Cardiff: "Executorship and Trusts," by Mr. J. Linahan, A.S.A.A. Park Hotel, at 7 p.m.

Leeds: Annual Dinner-Dance. Queen's Hotel, at 7.30 p.m.

Manchester: "Costing," by Mr. S. C. Roberts, F.C.W.A. Students' meeting (Intermediate). Incorporated Accountants' Hall, 90, Deansgate, at 6.30 p.m.

FEBRUARY 11

London: "Finance for Private Companies," by Mr. J. Gibson Jarvie, Chairman, United Dominions Trust, Ltd. Incorporated Accountants' Hall, W.C.2., at 6 p.m.

Sheffield: "The Future Relationship between the Government and the Industry," by Mr. H. G. Hodder, manager, Intelligence Department, National Provincial Bank, Ltd.

FEBRUARY 12

Leeds: "Economics of Rearmament," by Professor A. N. Shimmin, M.A. Hotel Metropole at 6.15 p.m.

Portsmouth: "Consolidated Accounts," by Mr. R. Glynne Williams, F.C.A., F.T.I.I. Gas Undertaking Demonstration Room, at 6.30 p.m.

Waterford: "Standard Costing," by Mr. W. W. Bigg, F.C.A., F.S.A.A. Students' meeting.

FEBRUARY 13

Dublin: "Standard Costing," by Mr. W. W. Bigg, F.C.A., F.S.A.A. Students' meeting. Jury's Hotel, Dame Street, at 6.15 p.m.

Newport, Mon.: "Taxation Notes for Students," by Mr. E. M. Forster, F.S.A.A. Westgate Hotel, at 6.30 p.m.

Southampton: "Consolidated Accounts," by Mr. R. Glynne Williams, F.C.A., F.T.I.I.

FEBRUARY 14

Belfast: "Modern Developments in Accounting Principles," by Mr. W. W. Bigg, F.C.A., F.S.A.A. The Library, 13, Donegall Square, at 7 p.m.

Bournemouth: "Consolidated Accounts," by Mr. R. Glynne Williams, F.C.A., F.T.I.I. Wedgwood Restaurant, Albert Road, at 6.30 p.m.

Coventry: Lecture to be arranged.

Nottingham: "Costing," by Mr. V. S. Hockley, B.COM., C.A. Reform Club, Victoria Street, at 6.30 p.m.

FEBRUARY 15

Birmingham: "Sur-tax on Companies," by Mr. W. G. A. Russell, F.S.A.A. Law Library, Temple Street, at 6.15 p.m.

Bristol: "Machine Accounting, II," by National Cash Register Co., Ltd. Students' meeting. Royal Hotel, College Green, at 6.30 p.m.

Grimsby: "Taxation — Computation of Profits—Disallowable Items, Case I," by Mr. J. S. Heaton, F.S.A.A. Chamber of Commerce, 77, Victoria Street, at 7.30 p.m.

London: Dinner-dance. Hyde Park Hotel.

Manchester: "Double Taxation Relief," by Mr. F. A. Gahan, Chief Inspector of Taxes, E.P.T. Centre. Incorporated Accountants' Hall, 90, Deansgate, at 6 p.m.

Shrewsbury: "Negotiable Instruments," by Mr. L. J. Potts, B.SC., Barrister-at-Law. Arranged by Birmingham District Society. Old Post Office Hotel, Milk Street, at 6.30 p.m.

Swansea: "Profits Tax—Rules and Computations," by Mr. Percy F. Hughes, A.S.A.A., F.C.I.S. Students' meeting. Central Library, Alexandra Road, at 6.45 p.m.

FEBRUARY 16

Southend-on-Sea: Tax Panel of local practitioners, at 10 a.m. "Agency in Mercantile Law," by Mr. O. Griffiths, M.A., LL.B., Barrister-at-Law, at 11.15 a.m. Arranged by London Students' Society, Southend-on-Sea and District Branch. Chamber of Trade, 33, Victoria Avenue.

FEBRUARY 18

London: Joint debate with members of the London Students' Society of the Institute of Municipal Treasurers and Accountants. Students' meeting. Incorporated Accountants' Hall, W.C.2, at 6 p.m.

FEBRUARY 19

Liverpool: "Company Reconstruction Schemes," by Mr. W. W. Bigg, F.C.A., F.S.A.A. Incorporated Accountants' Hall, 25, Fenwick Street, at 5.30 p.m.

FEBRUARY 20

Newport, Mon.: "Presentation of Accounts for Management," by Mr. E. Gilbert, F.S.A.A. Westgate Hotel, at 6.30 p.m.

Truro: "Taxation," by Mr. H. A. R. J. Wilson, F.C.A., F.S.A.A. Mansion House, at 6.30 p.m.

FEBRUARY 21

Birmingham: Dance. Botanical Gardens, Edgbaston.

Bradford: "Apportionment in Executorship," by Mr. V. S. Hockley, B.COM., C.A. Liberal Club, Bank Street, at 6.15 p.m.

Exeter: "Taxation," by Mr. H. A. R. J. Wilson, F.C.A., F.S.A.A. Farmers' Union Offices, Osborne House, Clock Tower, at 6 p.m.

Leeds: Discussion Circle. Joint meeting

with other professional bodies. Hotel Metropole, at 6 p.m.

Newcastle upon Tyne: "Loss Claims," by Mr. P. F. Hughes, F.C.I.S., A.S.A.A. 52, Grainger Street, at 6.15 p.m.

Oxford: "Income Tax, Schedule D, Cases I and II," by Mr. H. Barratt, A.A.C.C.A. Students' meeting arranged jointly with the Oxford Chartered Accountant Students' Society. Y.M.C.A. Lewis Room, George Street, at 6.30 p.m.

FEBRUARY 22

Birmingham: Debate with Chartered Accountant Students: "That the community contains too many cooks and too little broth." Law Library, Temple Street, at 6.15 p.m.

Manchester: "Costing," by Mr. S. C. Roberts, F.C.W.A. Students' meeting (Intermediate). Incorporated Accountants' Hall, 90, Deansgate, at 6.30 p.m.

Middlesbrough: "Back Duty Cases," by Mr. P. F. Hughes, F.C.I.S., A.S.A.A. Café Royal, Linthorpe Road, at 6.30 p.m.

Portsmouth: Dinner.

Swansea: "Case Law as affecting Accountants and Secretaries," by Mr. Dyfan Roberts, B.SC., Barrister-at-Law. Mackworth Hotel, at 6.45 p.m.

FEBRUARY 27

Bristol: "Company Law," by Mr. T. W. South, B.A., Barrister-at-Law. Students' meeting. Royal Hotel, College Green, at 6.30 p.m.

Newport, Mon.: "Students' Problems," by Mr. C. T. Stephens, J.P., F.S.A.A. Westgate Hotel, at 6.30 p.m.

FEBRUARY 28

Cardiff: "Standard Costing for a Small Manufacturer," by Mr. Ivor Griffiths, F.S.A.A. Temple of Peace, at 6.30 p.m.

Coventry: Discussion group. Chamber of Commerce, Queen Victoria Road, at 7.30 p.m.

FEBRUARY 29

Birmingham: Discussion group. Law Library, Temple Street, at 6.15 p.m.

Hanley: "Taxation," by Mr. J. S. Heaton, F.S.A.A. Town Hall, at 6.30 p.m.

Manchester: Mock shareholders' meeting. Students' meeting. Incorporated Accountants' Hall, 90, Deansgate, at 6.30 p.m.

Waterford: Discussion circle. Students' meeting.

MARCH 3

London: Mock creditors' meeting, conducted by Mr. A. V. Hussey, F.S.A.A. Students' meeting. Incorporated Accountants' Hall, W.C.2, at 6 p.m.

MARCH 4

Dublin: "Computation of adjusted Profit for Income Tax," by Mr. W. J. McMahon, A.S.A.A. Students' meeting. Jury's Hotel, Dame Street, at 6.15 p.m.

Dudley: Discussion group—"Executorship Law and Accounts." Arranged by Birmingham District Society. Dudley and Staffordshire Technical College, Broadway, at 7 p.m.

Eastbourne: "Banking and the Stock Exchange," by Mr. C. Ralph Curtis, PH.D., M.SC.(ECON.), F.C.I.S. Arranged by Sussex District Society. Council Chamber, Town Hall, at 7.45 p.m.

MARCH 5

Newport, Mon.: "Profits Tax," by Mr. J. H Pulsford, A.S.A.A. Westgate Hotel, at 6.30 p.m.

Swansea: "Amalgamations and Absorptions," by Mr. G. Gordon Thomas, PH.D., F.S.A.A., A.C.A. Students' meeting. Central Library, Alexandra Road, at 6.45 p.m.

MARCH 6

Leicester: "The Practice of Company Law," by Mr. E. G. Hardman, F.C.I.S. Royal Hotel, Horsefair Street, at 6.15 p.m.

Oxford: Discussion on Examination Questions. Students' meeting arranged jointly with the Oxford Chartered Accountant Students' Society. Kemp Café, Broad Street, at 6.30 p.m.

MARCH 7

Birmingham: "Legal Decisions of practical interest to the Banker and his Customer," by Mr. T. E. Hurst. Law Library, Temple Street, at 6.15 p.m.

Bradford: Lecture to be arranged.

Bristol: "Machine Accounting, III," by National Cash Register Co., Ltd. Students' meeting. Royal Hotel, College Green, at 6.30 p.m.

Grimsby: "Taxation—Schedule D. Cases 3-6 and Schedule E," by Mr. P. F. Hughes, A.S.A.A., F.C.I.S. Chamber of Commerce, 77, Victoria Street, at 7.30 p.m.

Manchester: "Costing," by Mr. S. C. Roberts, F.C.W.A. Students' meeting (Intermediate). Incorporated Accountants' Hall, 90, Deansgate, at 6.30 p.m.

MARCH 8

Southend-on-Sea: "Current Economic Affairs," by Mr. Leo T. Little, B.SC. Arranged by London Students' Society, Southend-on-Sea and District Branch. Chamber of Trade, 33, Victoria Avenue, at 10 a.m.

EXAMINATIONS, MAY 1952

THE SOCIETY'S EXAMINATIONS WILL BE HELD on the following dates:

Final:	Part I	May 13 and 14, 1952.
	Part II	May 15 and 16, 1952.
Intermediate:		May 15 and 16, 1952.
Preliminary:		May 15 and 16, 1952.

The centres will be Belfast, Birmingham, Cardiff, Dublin, Glasgow, Leeds, Liverpool, London, Manchester and Newcastle upon Tyne.

Completed applications, together with all the relevant supporting documents and the fee (Final, Part I, £3 3s.; Part II, £3 3s.; Parts I and II together, £5 5s.; Intermediate, £4 4s.; Preliminary, £3 3s.), must reach the Secretary, Incorporated Accountants' Hall, Temple Place, Victoria Embankment, London, W.C.2, not later than Monday, March 17, 1952.

Candidates are asked to obtain application forms from the Honorary Secretary of their Branch or District Society.

DISTRICT SOCIETIES

LONDON STUDENTS' SOCIETY

SOUTHEND-ON-SEA BRANCH

A DINNER-DANCE WILL BE HELD AT THE Westcliff Hotel on Saturday, February 9. Members of the parent Society and student members who have not received full details are invited to apply to the honorary secretary, Mr. E. H. R. Martin, F.S.A.A., 13, Cambridge Road, Southend-on-Sea.

NORTH LANCASHIRE

DISCUSSION GROUPS FOR STUDENTS HAVE been formed in East Lancashire and the Fylde.

The students in East Lancashire held a successful dinner on December 18 at the Dunkenhalgh Hotel, Clayton-le-Moors, near Accrington. Mr. P. F. Pierce, F.S.A.A., senior vice-president of the District Society, and Mr. K. R. Stanley, F.S.A.A., honorary secretary, were present as guests.

SOUTH WALES AND MONMOUTHSHIRE

AT A MEETING HELD AT CARDIFF ON November 29, 1951, a lecture was given on "An Outline of the Object and the Preparation and Use of a Budget," by Mr. W. F. Edwards, A.S.A.A., a member of the parent Society's Research Committee on Management.

Mr. Edwards dealt with his subject in a practical manner, saying that a budget was a "trial run" or "pre-view" of the net sales and costs and the trading and profit and loss account and balance sheet for the ensuing financial year, based on estimated conditions, both internal and political, etc. He drew attention to the importance of comparing budget standards with actual results. This could be achieved by the preparation of regular—preferably monthly—accounts in the period, as thereby it would be shown whether operating techniques could be improved and cost or expenses reduced or income increased.

An interesting discussion followed. Mr. W. J. Fooks, president of the District Society, thanked Mr. Edwards for an instructive and stimulating lecture.

LONDON STUDENTS' SOCIETY

PRE-EXAMINATION COURSES

THE PROGRAMME FOR THE TWO PRE-examination courses to be held at Ashridge College in April next is as follows.

Intermediate Course

APRIL 23
"Accounts in Bankruptcy and Liquidations," by Mr. R. Glynne Williams, F.C.A.
"Accounting Points in Partnership," by Mr. R. Glynne Williams, F.C.A.

APRIL 24
"Branch Accounts," by Mr. R. Glynne Williams, F.C.A.
"Amalgamations and Reconstructions," by Mr. R. Glynne Williams, F.C.A.
"Tax Computations," by Mr. H. A. R. J. Wilson, F.C.A., F.S.A.A. (two lectures).
"Accounts from Incomplete Records," by Mr. L. J. Northcott, F.C.A.

APRIL 25
"Executorship and Trust Accounts," by Mr. A. E. Langton, LL.B., F.C.A., F.S.A.A. (two lectures).
"Balance Sheet Verifications," by Mr. A. C. Simmonds, F.S.A.A.
"Duties and Responsibilities of Auditors," by Mr. A. C. Simmonds, F.S.A.A.
Mock Company Meeting.

APRIL 26
"Investigations and Reports," by Mr. A. C. Simmonds, F.S.A.A.
"Sale of Goods Act," by Mr. T. W. South, M.A., Barrister-at-Law.
"Structure of the Money Market," by Mr. L. T. Little, B.SC. (ECON.).
"Cheques and Bills of Exchange," by Mr. O. Griffiths, M.A., LL.B., Barrister-at-Law.
"Law of Contract," by Mr. O. Griffiths, M.A., LL.B., Barrister-at-Law.

APRIL 27
"Companies and Company Capital," by Mr. R. D. Penfold, LL.B., Barrister-at-Law.
"Companies—Formation, Annual Formalities," by Mr. R. D. Penfold, LL.B., Barrister-at-Law.
"Profits Tax," by Mr. L. A. Hall, A.C.A., A.S.A.A.
"Schedules A, B, C and E," by Mr. L. A. Hall, A.C.A., A.S.A.A.

APRIL 28
"Auditing Provisions of the Companies Act, 1948," by Mr. P. E. Harris, A.S.A.A.
"Audit Programmes and Technique of Auditing," by Mr. P. E. Harris, A.S.A.A.
"Costing," by Mr. W. W. Bigg, F.C.A., F.S.A.A. (two lectures).
"The Elements of Trade Finance," by Mr. L. T. Little, B.SC. (ECON.).

Final Course

Part I

APRIL 23
"Costing," by Mr. W. W. Bigg, F.C.A., F.S.A.A. (two lectures).

APRIL 24
"Branch Accounts," by Mr. R. Glynne Williams, F.C.A.
"Amalgamations and Reconstructions," by Mr. R. Glynne Williams, F.C.A.
"Group Accounts," by Mr. A. E. Langton, LL.B., F.C.A., F.S.A.A. (two lectures).
"Accounts from Incomplete Records," by Mr. L. J. Northcott, F.C.A.

APRIL 25
"Executorship and Trust Accounts," by Mr. A. E. Langton, LL.B., F.C.A., F.S.A.A. (two lectures).
"Balance Sheet Verifications," by Mr. A. C. Simmonds, F.S.A.A.
"Duties and Responsibilities of Auditors," by Mr. A. C. Simmonds, F.S.A.A.
Mock Company Meeting.

Part II

APRIL 26
"Liquidations," by Mr. T. W. South, M.A., Barrister-at-Law.
"Structure of the Money Market," by Mr. L. T. Little, B.SC. (ECON.).
"Law of Receivership," by Mr. T. W. South, M.A., Barrister-at-Law.
"Law of Contract," by Mr. O. Griffiths, M.A., LL.B., Barrister-at-Law.

APRIL 27
"Trustees," by Mr. O. Griffiths, M.A., LL.B., Barrister-at-Law.
"Companies—Formation, Annual Formalities," by Mr. R. D. Penfold, LL.B., Barrister-at-Law.
"Partnership Law," by Mr. R. D. Penfold, LL.B., Barrister-at-Law.
"Schedules A, B, C and E," by Mr. L. A. Hall, A.C.A., A.S.A.A.

APRIL 28
"Tax Computations," by Mr. H. A. R. J. Wilson, F.C.A., F.S.A.A. (two lectures).
"Profits Tax," by Mr. T. L. A. Graham, A.S.A.A. (two lectures).
"The Elements of Trade Finance," by Mr. L. T. Little, B.SC. (ECON.).

The lectures relating to Part I of the Final Examination will be delivered during the first three days, and those relating to Part II during the last three days.

The cost to each student attending will be as follows:

Intermediate Course—£8.
Final Course—Part I—£4.
Final Course—Part II—£4.
Final Course—Parts I and II—£8.

These charges include food, accommodation and transport to and from Berkhamsted station. It is regretted that they are slightly higher than last time, owing to an increase in the cost of accommodation and board at the college.

The facilities at Ashridge include an excellent library, lecture halls and comfortable bedrooms. Tennis courts and Association and Rugby football pitches are available for recreation.

The courses are open to examination candidates from all parts of the United Kingdom. Application forms may be obtained direct from the secretary of the London Students' Society, or from honorary secretaries of district societies. Application to attend should be made as soon as possible.

PERSONAL NOTES

Mr. F. E. Price, F.S.A.A., a partner in Messrs. Alban & Lamb, has been appointed by the Minister of Housing and Local Government to be deputy chairman of the Cwmbran (New Town) Development Corporation.

Messrs. Arthur Stubbs and Spofforth, Chartered Accountants, Worthing, announce that Mr. M. G. Spofforth, A.C.A., has been admitted to partnership.

Mr. Stanley J. Russell, A.S.A.A., has been appointed Travelling Auditor in Europe to the American Express Company, Inc., 6, Haymarket, London, S.W.1.

Messrs. Peat, Marwick, Mitchell & Co. announce that Mr. J. W. Margetts, A.C.A., A.S.A.A., has been admitted as a partner in their London office.

Messrs. R. R. France & Co., Incorporated Accountants, Leeds, announce that Mr. John Astle, A.S.A.A., who has been associated with them for the last twelve years, has been admitted as a partner.

Messrs. Lancaster, Clements & Co., Wolverhampton, announce that Mr. R. Mackie, F.C.A., and Mr. A. B. Plevey, F.C.A., have retired from the partnership, and Mr. Leonard Davies, A.S.A.A., has been admitted a partner. The practice is now being carried on by Mr. F. Clements, A.A.C.C.A., A.C.W.A., and Mr. L. Davies, A.S.A.A.

Messrs. T. H. Jackson & Bunting, Incorporated Accountants, Scarborough, announce that they have taken over the practice of the late Mr. J. G. Tomlinson, at Central Chambers, Baxtergate, Whitby. The firm name at the branch will be Jackson & Bunting.

Mr. Harold T. Hooley, Incorporated Accountant, Nottingham, has taken into partnership Mr. J. A. H. Macklin, Mr. T. R. Oliver, A.S.A.A., Miss A. C. Sheppard, A.S.A.A., and Mr. F. Banks. The practice will be continued under the firm name of Harold T. Hooley.

Messrs. Walter Hinton & Pulker, Chartered Accountants (S.A.), Cape Town, have admitted to partnership Mr. A. J. Pulker, B.A., C.A.(S.A.), A.S.A.A.

Messrs. Glover & Co., Doncaster, have taken into partnership Mr. R. J. Mellor, A.S.A.A.

Mr. C. B. Hancock, A.S.A.A., has been appointed secretary to Morris & Co. (Shrewsbury), Ltd.

Messrs. Wade, Harrison & Co., Chartered Accountants, London, E.C.2, have taken Mr. L. E. Swallow, A.C.A., A.S.A.A., into partnership.

Mr. A. W. Charles, A.S.A.A., has commenced practice under the style of Charles and Co., Incorporated Accountants, at 203A, Trafalgar Road, Greenwich, London, S.E.10.

Messrs. H. W. Pratt, Pollard & Co., Incorporated Accountants, Wellingborough and Rushden, have admitted into partnership their managing clerk, Mr. B. C. Tarry, A.S.A.A. The firm name is changed to Pratt, Pollard & Tarry. The Wellingborough office has been moved to 41, Oxford Street.

Messrs. W. Vincent Vale & Co., Incorporated Accountants, Wolverhampton, announce that Mr. S. J. Richards, A.S.A.A., Mr. D. H. Lewis, A.S.A.A., and Mr. J. A. B. Stallard, A.S.A.A., have been taken into partnership. They have all been associated with the firm for a number of years.

Messrs. Dixon, Johnson & Murkett, Incorporated Accountants, Ashby-de-la-Zouche and Leicester, have taken into partnership Mr. J. Hurst, A.S.A.A. The style of the firm is now Johnson, Murkett and Hurst, Incorporated Accountants.

Mr. Murray Nathan, Incorporated Accountant, has commenced practice under the firm name of Murray Nathan & Co. at 58, Gordon Road, Finchley, London, N.3.

Messrs. Rickard & Co., Incorporated Accountants, London, W.C.2, and Southend-on-Sea, announce that Mr. L. H. Brazier, A.S.A.A., who has been associated with the firm for a number of years, has been admitted into partnership.

Messrs. Rickard, Chambers & Co., Worthing, announce that Mr. L. H. Brazier, A.S.A.A., has been admitted into partnership.

Mr. B. J. Raymond, Incorporated Accountant, is now in practice at 415, Green Lanes, London, N.4.

Mr. W. Campbell Quine, A.S.A.A., Johannesburg, has admitted to partnership Mr. A. M. Chalmers, a member of the Transvaal Society of Accountants. They are practising under the style of Campbell Quine, Chalmers & Co.

Mr. H. Booker, A.S.A.A., has been appointed Accountant to Cravens Railway Carriage and Wagon Co., Ltd., Sheffield.

Mr. S. P. McEvoy, Incorporated Accountant, has commenced public practice at 36, Upper O'Connell Street, Dublin.

Mr. Edgar A. Arnott, Incorporated Accountant, has commenced practice as Arnott, Hazael & Co., at Sudley Chambers, Sudley Road, Bognor Regis.

Mr. T. N. Jennings, Incorporated Accountant, has commenced practice at 60, Hamilton Avenue, Birmingham, 17.

REMOVALS

Messrs. S. H. Wilson & Co., Incorporated Accountants, have removed to 1, Hatton Garden, London, E.C.1.

Messrs. G. W. Bacon & Co., Incorporated Accountants, announce a change of address to 91-93, Bishopsgate, London, E.C.2.

Messrs. McCormick & Shah announce change of address to 130, Crawford Street, Baker Street, London, W.1.

Mr. William L. Webster, Incorporated Accountant, has removed his office to 24, South King Street, Blackpool.

OBITUARY

James Crichton Cessford

Mr. James C. Cessford, C.A., F.S.A.A., Edinburgh, died on December 15. Mr. Cessford became a member of the Society of Incorporated Accountants and of the Scottish Branch in 1915, after obtaining Honours in the Final Examination. He was then in the service of Messrs. Scott & Paterson, but shortly afterwards commenced public practice in his own name. He always took considerable interest in the work of the Society in Edinburgh.

Mr. Cessford was deeply interested in the Co-operative movement. He was a director of the Co-operative Permanent Building Society and joint auditor of the Scottish Co-operative Wholesale Society, St. Cuthbert's and Leith Provident Society and a number of others. For five years he was a member of the Scottish Special Housing Advising Committee. He was 64.

Arthur Horace Stevens

We regret to report the death on January 13 of Mr. A. H. Stevens, F.S.A.A., at the age of 81. He qualified as a member of the Society in 1905 and was a partner in the firm of Button, Stevens & Witty, Incorporated Accountants, London, until his retirement about four years ago.

Mr. Richard A. Witty, F.S.A.A., sends us the following personal tribute:

It is pleasant to look back over a period of forty years of partnership and to recall that during those many years Arthur Stevens and I never had a serious difference, either in business or in private life. He was the soul of "fidelity and integrity" and his unfailing cheerfulness was reflected throughout the office at all times. He was immensely proud of the Society and its achievements. He was painstaking and thorough to an exceptional degree. He had no desire for any form of personal publicity but he never forgot the dignity of the profession and in his quiet way he reached the highest ideals of professional life. His memory will long be cherished by those who were privileged to work with him.

Hugh Dixon Williams

We record with deep regret the death on January 3 of Mr. H. Dixon Williams, F.S.A.A., honorary secretary of the Incorporated Accountants' Swansea and South-West Wales District Society.

Mr. Williams served his articles with Mr. R. Wilson Bartlett, D.L., J.P., F.S.A.A., at Newport, Mon., and became a member of the Society of Incorporated Accountants in 1916. After a short period in a professional office in Swansea he commenced public practice as a partner in Messrs. W. Picton Jones, Francis & Williams. The firm name was subsequently changed to Francis and Williams, and Mr. Williams remained a partner until the date of his death.

After the first world war he served on the War Services Appointments Committee, and many accountants in South Wales are grateful for his advice and assistance.

He was honorary treasurer of the Swansea and South-West Wales District Society from 1936 to 1946, when he was elected honorary secretary. He will be widely mourned in professional circles in the area. His comments and criticism on all matters of professional interest were much appreciated, and the students in particular have lost a friend and adviser.

The funeral took place at Tidenham Church, Tutshill, near Chepstow, on January 8.